

1 15A NCAC 03I .0101 is readopted with changes as published in 36:07 NCR 453-460 as follows:

2
3 **SUBCHAPTER 03I – GENERAL RULES**

4
5 **SECTION .0100 – GENERAL RULES**

6
7 **15A NCAC 03I .0101 DEFINITIONS**

8 All definitions set out in G.S. 113, Subchapter IV and the following additional terms shall apply to this Chapter:

9 (1) ~~Enforcement~~ enforcement and management terms:

10 (a) ~~Commercial Quota. Total~~ "Commercial quota" means total quantity of fish allocated for
11 harvest by commercial fishing operations.

12 (b) ~~Educational Institution. A~~ "Educational institution" means a college, university, or
13 community college accredited by an accrediting agency recognized by the U.S. Department
14 of Education; an Environmental Education Center certified by the N.C. Department of
15 ~~Environment and Natural Resources~~ Environmental Quality Office of Environmental
16 Education and Public Affairs; or a zoo or aquarium certified by the Association of Zoos
17 and Aquariums.

18 (c) ~~Internal Coastal Waters or Internal Waters. All~~ "Internal Coastal Waters" or "Internal
19 Waters" means all Coastal Fishing Waters except the Atlantic Ocean.

20 (d) ~~Length of finfish.~~ length of finfish:

21 (i) ~~Curved fork length. A~~ "Curved fork length" means a length determined by
22 measuring along a line tracing the contour of the body from the tip of the upper
23 jaw to the middle of the fork in the caudal (tail) fin.

24 (ii) ~~Fork length. A~~ "Fork length" means a length determined by measuring along a
25 straight line the distance from the tip of the snout with the mouth closed to the
26 middle of the fork in the caudal (tail) fin, except that fork length for billfish is
27 measured from the tip of the lower jaw to the middle of the fork of the caudal
28 (tail) fin.

29 (iii) ~~Pectoral fin curved fork length. A~~ "Pectoral fin curved fork length" means a
30 length of a beheaded fish from the dorsal insertion of the pectoral fin to the fork
31 of the tail measured along the contour of the body in a line that runs along the top
32 of the pectoral fin and the top of the caudal keel.

33 (iv) ~~Total length. A~~ "Total length" means a length determined by measuring along a
34 straight line the distance from the tip of the snout with the mouth closed to the tip
35 of the compressed caudal (tail) fin.

36 (e) "Nongovernmental conservation organization" means an organization whose primary
37 mission is the conservation of natural resources.

- 1 (f) "Polluted" means any shellfish growing ~~waters;~~waters as defined in 15A NCAC 18A
2 .0901:
3 (i) that are contaminated with fecal material, pathogenic microorganisms, poisonous
4 or deleterious substances, or marine biotoxins that render the consumption of
5 shellfish from those growing waters hazardous;
6 (ii) that have been determined through a sanitary survey as defined in 15A NCAC
7 18A .0901 to be adjacent to a sewage treatment plant outfall or other point source
8 outfall with public health significance;
9 (iii) that have been determined through a sanitary survey as defined in 15A NCAC
10 18A .0901 to be in or adjacent to a marina;
11 (iv) that have been determined through a sanitary survey as defined in 15A NCAC
12 18A .0901 to be impacted by other potential sources of pollution that render the
13 consumption of shellfish from those growing waters hazardous; or
14 (v) where the Division of Marine Fisheries is unable to complete the monitoring
15 necessary to determine the presence of contamination or potential pollution
16 sources.
- 17 ~~(e)(g) Recreational Possession Limit. Restrictions~~ "Recreational possession limit" means
18 restrictions on size, quantity, season, time period, area, means, and methods where take or
19 possession is for a recreational purpose.
- 20 ~~(f)(h) Recreational Quota. Total~~ "Recreational quota" means total quantity of fish allocated for
21 harvest for a recreational purpose.
- 22 ~~(g)(i) Regular Closed Oyster Season.~~ "Regular closed oyster season" means March 31 through
23 October 15, unless amended by the Fisheries Director through proclamation authority.
- 24 ~~(h)(j) Scientific Institution. One~~ "Scientific institution" means one of the following entities:
25 (i) ~~An~~ an ~~educational institution as defined in this Item;~~
26 (ii) ~~A~~ a ~~state or federal agency charged with the management of marine or estuarine~~
27 ~~resources; or~~
28 (iii) ~~A~~ a ~~professional organization or secondary school working under the direction of,~~
29 ~~or in compliance with mandates from, the entities listed in Subitems (h)(i) Sub-~~
30 ~~items (j)(i) and (ii) of this Item.~~
- 31 ~~(i) Seed Oyster Management Area. An open harvest area that, by reason of poor growth~~
32 ~~characteristics, predation rates, overcrowding or other factors, experiences poor utilization~~
33 ~~of oyster populations for direct harvest and sale to licensed dealers and is designated by~~
34 ~~the Marine Fisheries Commission as a source of seed for public and private oyster culture.~~
- 35 (2) ~~Fishing Activities:~~ fishing activities:
36 (a) ~~Aquaculture operation. An~~ "Aquaculture operation" means an operation that produces
37 artificially propagated stocks of marine or estuarine ~~resources~~resources, or other non-

1 native species that may thrive if introduced into Coastal Fishing Waters, or obtains such
2 stocks from permitted sources for the purpose of rearing on private bottom (with or without
3 the superadjacent water column) or in a controlled environment. A controlled environment
4 provides and maintains throughout the rearing process one or more of the following:

- 5 (i) food;
- 6 (ii) predator protection;
- 7 (iii) salinity;
- 8 (iv) temperature controls; or
- 9 ~~(v) water circulation,~~

10 ~~utilizing technology not found in the natural environment.~~

11 (v) water circulation, utilizing technology not found in the natural environment.

12 (b) ~~Attended. Being "Attended" means being~~ in a vessel, in the water or on the shore, and
13 immediately available to work the gear and be within 100 yards of any gear in use by that
14 person at all times. Attended does not include being in a building or structure.

15 (c) ~~Blue Crab Shedding. The "Blue crab shedding" means the process~~ whereby a blue crab
16 emerges soft from its former hard exoskeleton. A shedding operation is any operation that
17 holds peeler crabs in a controlled environment. A controlled environment provides and
18 maintains throughout the shedding process one or more of the following:

- 19 (i) food;
- 20 (ii) predator protection;
- 21 (iii) salinity;
- 22 (iv) temperature controls; or
- 23 (v) water circulation, utilizing technology not found in the natural environment. A

24 shedding operation does not include transporting pink or red-line peeler crabs to
25 a permitted shedding operation.

26 (d) ~~Depuration. Purification.~~ "Depuration" means mechanical purification or the removal of
27 adulteration from live oysters, clams, or mussels by any ~~natural or~~ artificially controlled
28 means.

29 (e) ~~Long Haul Operations. Fishing.~~ "Long haul operation" means fishing a seine towed
30 between two vessels.

31 (f) ~~Peeler Crab.~~ A "Peeler crab" means a blue crab that has a soft shell developing under a
32 hard shell and having a white, pink, or red-line or rim on the outer edge of the back fin or
33 flipper.

34 (g) ~~Possess. Any.~~ "Possess" means any actual or constructive holding whether under claim of
35 ownership or not.

36 (h) ~~Recreational Purpose.~~ A "Recreational purpose" means a fishing activity that is not a
37 commercial fishing operation as defined in G.S. 113-168.

- 1 (i) ~~Shellfish marketing from leases and franchises.~~ The "Shellfish marketing from leases and
2 franchises" means the harvest of oysters, clams, scallops, or mussels from privately held
3 shellfish bottoms and lawful sale of those shellfish to the public at large or to a licensed
4 shellfish dealer.
- 5 (j) ~~Shellfish planting effort on leases and franchises.~~ The "Shellfish planting effort on leases
6 and franchises" means the process of obtaining authorized cultch materials, seed shellfish,
7 and ~~polluted~~ shellfish stocks from polluted waters and the placement of those materials on
8 privately held shellfish bottoms for increased shellfish production.
- 9 (k) ~~Shellfish production on leases and franchises.~~ "Shellfish production on leases and
10 franchises" means:
- 11 (i) ~~The~~ the culture of oysters, clams, scallops, or mussels on shellfish leases and
12 franchises from a sublegal harvest size to a marketable size.
- 13 (ii) ~~The~~ the transplanting (relay) of oysters, clams, scallops, or mussels from areas
14 closed due to pollution to shellfish leases and franchises in open waters and the
15 natural cleansing of those shellfish.
- 16 (l) ~~Swipe Net Operations. Fishing.~~ "Swipe net operations" means fishing a seine towed by one
17 vessel.
- 18 (m) ~~Transport. Ship.~~ "Transport" means to ship, carry, or cause to be carried or moved by
19 public or private carrier by land, sea, or air.
- 20 (n) ~~Use. Employ.~~ "Use" means to employ, set, operate, or permit to be operated or employed.
- 21 (3) ~~Gear.~~ gear:
- 22 (a) ~~Bunt Net.~~ The "Bunt net" means the last encircling net of a long haul or swipe net operation
23 constructed of small mesh webbing. The bunt net is used to form a pen or pound from
24 which the catch is dipped or bailed.
- 25 (b) ~~Channel Net.~~ A "Channel net" means a net used to take shrimp that is anchored or attached
26 to the bottom at both ends or with one end anchored or attached to the bottom and the other
27 end attached to a vessel.
- 28 (c) ~~Commercial Fishing Equipment or Gear.~~ All "Commercial fishing equipment or gear"
29 means all fishing equipment used in Coastal Fishing Waters except:
- 30 (i) ~~Cast~~ cast nets;
- 31 (ii) ~~Collapsible~~ collapsible crab traps, a trap used for taking crabs with the largest
32 open dimension no larger than 18 inches and that by design is collapsed at all
33 times when in the water, except when it is being retrieved from or lowered to the
34 bottom;
- 35 (iii) ~~Dip~~ dip nets or scoops having a handle not more than eight feet in length and a
36 hoop or frame to which the net is attached not exceeding 60 inches along the
37 perimeter;

- 1 (iv) ~~Gigs-gigs~~ or other pointed implements that are propelled by hand, whether or not
2 the implement remains in the hand;
- 3 (v) ~~Hand-hand~~ operated rakes no more than 12 inches wide and weighing no more
4 than six pounds and hand operated tongs;
- 5 (vi) ~~Hook and line and bait and line~~ hook and line, and bait and line equipment other
6 than multiple-hook or multiple-bait trotline;
- 7 (vii) ~~Landing-landing~~ nets used to assist in taking fish when the initial and primary
8 method of taking is by the use of hook and line;
- 9 (viii) ~~Minnow-minnow~~ traps when no more than two are in use;
- 10 (ix) ~~Seines-seines~~ less than 30 feet in length;
- 11 (x) ~~Spears, spears~~, Hawaiian slings, or similar devices that propel pointed implements
12 by mechanical means, including elastic tubing or bands, pressurized gas, or
13 similar means.
- 14 (d) ~~Corkline.~~ The "Corkline" means the support structure a net is attached to that is nearest to
15 the water surface when in use. Corkline length is measured from the outer most mesh knot
16 at one end of the corkline following along the line to the outer most mesh knot at the
17 opposite end of the corkline.
- 18 (e) ~~Dredge.~~ A "Dredge" means a device towed by engine power consisting of a frame, tooth
19 bar or smooth bar, and catchbag used in the harvest of oysters, clams, crabs, scallops, or
20 conchs.
- 21 (f) ~~Fixed or stationary net.~~ A "Fixed or stationary net" means a net anchored or staked to the
22 bottom, or some structure attached to the bottom, at both ends of the net.
- 23 (g) ~~Fyke Net.~~ An "Fyke net" means an entrapment net supported by a series of internal or
24 external hoops or frames, with one or more lead or leaders that guide fish to the net mouth.
25 The net has one or more internal funnel-shaped openings with tapered ends directed inward
26 from the mouth, through which fish enter the enclosure. The portion of the net designed to
27 hold or trap fish is completely enclosed in mesh or webbing, except for the openings for
28 fish passage into or out of the net (funnel area).
- 29 (h) ~~Gill Net.~~ A "Gill net" means a net set vertically in the water to capture fish by entanglement
30 of the gills in its mesh as a result of net design, construction, mesh length, webbing
31 diameter, or method in which it is used.
- 32 (i) ~~Headrope.~~ The "Headrope" means the support structure for the mesh or webbing of a trawl
33 that is nearest to the water surface when in use. Headrope length is measured from the outer
34 most mesh knot at one end of the headrope following along the line to the outer most mesh
35 knot at the opposite end of the headrope.
- 36 (j) ~~Hoop Net.~~ An "Hoop net" means an entrapment net supported by a series of internal or
37 external hoops or frames. The net has one or more internal funnel-shaped openings with

1 tapered ends directed inward from the mouth, through which fish enter the enclosure. The
2 portion of the net designed to hold or trap the fish is completely enclosed in mesh or
3 webbing, except for the openings for fish passage into or out of the net (funnel area).

4 (k) ~~Lead.~~ A "Lead" means a mesh or webbing structure consisting of nylon, monofilament,
5 plastic, wire, or similar material set vertically in the water and held in place by stakes or
6 anchors to guide fish into an enclosure. Lead length is measured from the outer most end
7 of the lead along the top or bottom line, whichever is longer, to the opposite end of the
8 lead.

9 (l) ~~Mechanical methods for clamming. Dredges.~~ "Mechanical methods for clamming" means
10 dredges, hydraulic clam dredges, stick rakes, and other rakes when towed by engine power,
11 patent tongs, kicking with propellers or deflector plates with or without trawls, and any
12 other method that utilizes mechanical means to harvest clams.

13 (m) ~~Mechanical methods for oystering. Dredges.~~ "Mechanical methods for oystering" means
14 dredges, patent tongs, stick rakes, and other rakes when towed by engine power, and any
15 other method that utilizes mechanical means to harvest oysters.

16 (n) ~~Mesh Length.~~ The "Mesh length" means the distance from the inside of one knot to the
17 outside of the opposite knot, when the net is stretched hand-tight in a manner that closes
18 the mesh opening.

19 (o) ~~Pound Net Set.~~ A "Pound net set" means a fish trap consisting of a holding pen, one or
20 more enclosures, lead or leaders, and stakes or anchors used to support the trap. The holding
21 pen, enclosures, and lead(s) are not conical, nor are they supported by hoops or frames.

22 (p) ~~Purse Gill Nets.~~ Any "Purse gill net" means any gill net used to encircle fish when the net
23 is closed by the use of a purse line through rings located along the top or bottom line or
24 elsewhere on such net.

25 (q) ~~Seine.~~ A "Seine" means a net set vertically in the water and pulled by hand or power to
26 capture fish by encirclement and confining fish within itself or against another net, the
27 shore or bank as a result of net design, construction, mesh length, webbing diameter, or
28 method in which it is used.

29 (4) ~~Fish habitat areas.~~ The "Fish habitat areas" means the estuarine and marine areas that support
30 juvenile and adult populations of fish species, as well as forage species utilized in the food chain.
31 Fish habitats as used in this definition, are vital for portions of the entire life cycle, including the
32 early growth and development of fish species. Fish habitats in all Coastal Fishing Waters, as
33 determined through marine and estuarine survey sampling, include:

34 (a) ~~Anadromous fish nursery areas.~~ Those "Anadromous fish nursery areas" means those areas
35 in the riverine and estuarine systems utilized by post-larval and later juvenile anadromous
36 fish.

- 1 (b) ~~Anadromous fish spawning areas.~~ Those "Anadromous fish spawning areas" means those
2 areas where evidence of spawning of anadromous fish has been documented in Division
3 sampling records through direct observation of spawning, capture of running ripe females,
4 or capture of eggs or early larvae.
- 5 (c) ~~Coral:~~ "Coral" means:
6 (i) ~~Fire~~ fire corals and hydrocorals (Class Hydrozoa);
7 (ii) ~~Stony~~ stony corals and black corals (Class Anthozoa, Subclass Scleractinia); or
8 (iii) Octocorals; Gorgonian corals (Class Anthozoa, Subclass Octocorallia), which
9 include sea fans (Gorgonia sp.), sea whips (Leptogorgia sp. and Lophogorgia sp.),
10 and sea pansies (Renilla sp.).
- 11 (d) ~~Intertidal Oyster Bed.~~ A "Intertidal oyster bed" means a formation, regardless of size or
12 shape, formed of shell and live oysters of varying density.
- 13 (e) ~~Live rock.~~ Living "Live rock" means living marine organisms or an assemblage thereof
14 attached to a hard substrate, excluding mollusk shells, but including dead coral or rock.
15 Living marine organisms associated with hard bottoms, banks, reefs, and live rock include:
16 (i) Coralline algae (Division Rhodophyta);
17 (ii) Acetabularia sp., mermaid's fan and cups (Udotea sp.), watercress (Halimeda sp.),
18 green feather, green grape algae (Caulerpa sp.) (Division Chlorophyta);
19 (iii) Sargassum sp., Dictyopteris sp., Zonaria sp. (Division Phaeophyta);
20 (iv) ~~Sponges~~ sponges (Phylum Porifera);
21 (v) ~~Hard~~ hard and soft corals, sea anemones (Phylum Cnidaria), including fire corals
22 (Class Hydrozoa), and Gorgonians, whip corals, sea pansies, anemones,
23 Solengastrea (Class Anthozoa);
24 (vi) Bryozoans (Phylum Bryozoa);
25 (vii) ~~Tube~~ tube worms (Phylum Annelida), fan worms (Sabellidae), feather duster and
26 Christmas treeworms (Serpulidae), and sand castle worms (Sabellaridae);
27 (viii) ~~Mussel~~ mussel banks (Phylum Mollusca: Gastropoda); and
28 (ix) ~~Acorn~~ acorn barnacles (Arthropoda: Crustacea: Semibalanus sp.).
- 29 (f) ~~Nursery areas.~~ Areas "Nursery areas" means areas that for reasons such as food, cover,
30 bottom type, salinity, temperature, and other factors, young finfish and crustaceans spend
31 the major portion of their initial growing season. Primary nursery areas are those areas in
32 the estuarine system where initial post-larval development takes place. These are areas
33 where populations are uniformly early juveniles. Secondary nursery areas are those areas
34 in the estuarine system where later juvenile development takes place. Populations are
35 composed of developing sub-adults of similar size that have migrated from an upstream
36 primary nursery area to the secondary nursery area located in the middle portion of the
37 estuarine system.

1 (g) ~~Shellfish producing habitats. Historic~~ "Shellfish producing habitats" means historic or
2 existing areas that shellfish, such as clams, oysters, scallops, mussels, and whelks use to
3 reproduce and survive because of such favorable conditions as bottom type, salinity,
4 currents, cover, and cultch. Included are those shellfish producing areas closed to shellfish
5 harvest due to pollution.

6 (h) ~~Strategic Habitat Areas. Locations~~ "Strategic Habitat Areas" means locations of individual
7 fish habitats or systems of habitats that provide exceptional habitat functions or that are
8 particularly at risk due to imminent threats, vulnerability, or rarity.

9 (i) ~~Submerged aquatic vegetation (SAV) habitat. Submerged~~ "Submerged aquatic vegetation
10 (SAV) habitat" means submerged lands that:

11 (i) are vegetated with one or more species of submerged aquatic vegetation including
12 bushy pondweed or southern naiad (*Najas guadalupensis*), coontail
13 (*Ceratophyllum demersum*), eelgrass (*Zostera marina*), horned pondweed
14 (*Zannichellia palustris*), naiads (*Najas* spp.), redhead grass (*Potamogeton*
15 *perfoliatus*), sago pondweed (*Stuckenia pectinata*, formerly *Potamogeton*
16 *pectinatus*), shoalgrass (*Halodule wrightii*), slender pondweed (*Potamogeton*
17 *pusillus*), water stargrass (*Heteranthera dubia*), water starwort (*Callitriche*
18 *heterophylla*), waterweeds (*Elodea* spp.), widgeongrass (*Ruppia maritima*), and
19 wild celery (*Vallisneria americana*). These areas may be identified by the presence
20 of above-ground leaves, below-ground rhizomes, or reproductive structures
21 associated with one or more SAV species and include the sediment within these
22 areas; or

23 (ii) have been vegetated by one or more of the species identified in Sub-item (4)(i)(i)
24 of this Rule within the past 10 annual growing seasons and that meet the average
25 physical requirements of water depth (six feet or less), average light availability
26 (secchi depth of one foot or more), and limited wave exposure that characterize
27 the environment suitable for growth of SAV. The past presence of SAV may be
28 demonstrated by aerial photography, SAV survey, map, or other documentation.
29 An extension of the past 10 annual growing seasons criteria may be considered
30 when average environmental conditions are altered by drought, rainfall, or storm
31 force winds.

32 This habitat occurs in both subtidal and intertidal zones and may occur in isolated patches
33 or cover extensive areas. In defining SAV habitat, the Marine Fisheries Commission
34 recognizes the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et. seq.) and does not
35 intend the submerged aquatic vegetation definition, or this Rule or ~~Rules 03K .0304-15A~~
36 NCAC 03K .0304 and .0404, to apply to or conflict with the non-development control
37 activities authorized by that Act.

- 1 (5) ~~Licenses, licenses,~~ permits, leases and franchises, and record keeping:
- 2 (a) ~~Assignment. Temporary-~~ "Assignment" means temporary transferal to another person of
- 3 privileges under a license for which assignment is permitted. The person assigning the
- 4 license delegates the privileges permitted under the license to be exercised by the assignee,
- 5 but retains the power to revoke the assignment at any time, and is still the responsible party
- 6 for the license.
- 7 (b) ~~Designee. Any-~~ "Designee" means any person who is under the direct control of the
- 8 permittee or who is employed by or under contract to the permittee for the purposes
- 9 authorized by the permit.
- 10 (c) ~~For Hire Vessel. As-~~ "For hire vessel", as defined by G.S. 113-174, means when the vessel
- 11 is fishing in ~~state~~ State waters or when the vessel originates from or returns to a North
- 12 Carolina port.
- 13 (d) ~~"Franchise"~~ means a franchise recognized pursuant to G.S. 113-206.
- 14 ~~(d)(c)~~ Holder. A "Holder" means a person who has been lawfully issued in ~~his or her~~ the person's
- 15 name a license, permit, franchise, lease, or assignment.
- 16 ~~(e)(f)~~ Land: "Land" means:
- 17 (i) ~~For for~~ commercial fishing operations, when fish reach the shore or a structure
- 18 connected to the shore.
- 19 (ii) ~~For for~~ purposes of trip tickets, when fish reach a licensed seafood dealer, or
- 20 where the fisherman is the dealer, when fish reach the shore or a structure
- 21 connected to the shore.
- 22 (iii) ~~For for~~ recreational fishing operations, when fish are retained in possession by the
- 23 fisherman.
- 24 ~~(f)(g)~~ Licensee. Any-"Licensee" means any person holding a valid license from the Department
- 25 to take or deal in marine fisheries resources.
- 26 ~~(g)(h)~~ Logbook. Paper-"Logbook" means paper forms provided by the Division and electronic
- 27 data files generated from software provided by the Division for the reporting of fisheries
- 28 statistics by persons engaged in commercial or recreational fishing or for-hire operators.
- 29 ~~(h)(i)~~ Master. Captain-"Master" means captain or operator of a vessel or one who commands and
- 30 has control, authority, or power over a vessel.
- 31 ~~(i)(j)~~ New fish dealer. Any-"New fish dealer" means any fish dealer making application for a
- 32 fish dealer license who did not possess a valid dealer license for the previous license year
- 33 in that name. For purposes of license issuance, adding new categories to an existing fish
- 34 dealers license does not constitute a new dealer.
- 35 ~~(j)(k)~~ Office of the Division. Physical-"Office of the Division" means physical locations of the
- 36 Division conducting license and permit transactions in Wilmington, Washington,
- 37 Morehead City, Roanoke Island, and Elizabeth City, North Carolina. Other businesses or

1 entities designated by the Secretary to issue Recreational Commercial Gear Licenses or
2 Coastal Recreational Fishing Licenses are not considered Offices of the Division.

3 ~~(k)(l)~~ ~~Responsible party. Person~~ "Responsible party" means the person who coordinates,
4 supervises, or otherwise directs operations of a business entity, such as a corporate officer
5 or executive level supervisor of business operations, and the person responsible for use of
6 the issued license in compliance with applicable statutes and rules.

7 ~~(l)(m)~~ ~~Tournament Organizer. The~~ "Tournament organizer" means the person who coordinates,
8 supervises, or otherwise directs a recreational fishing tournament and is the holder of the
9 Recreational Fishing Tournament License.

10 ~~(m)(n)~~ ~~Transaction. Act~~ "Transaction" means an act of doing business such that fish are sold,
11 offered for sale, exchanged, bartered, distributed, or landed.

12 ~~(n)(o)~~ ~~Transfer. Permanent~~ "Transfer" means permanent transferal to another person of privileges
13 under a license for which transfer is permitted. The person transferring the license retains
14 no rights or interest under the license transferred.

15 ~~(o)(p)~~ ~~Trip Ticket. Paper~~ "Trip ticket" means paper forms provided by the Division and electronic
16 data files generated from software provided by the Division for the reporting of fisheries
17 statistics by licensed fish dealers.

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19 *History Note: Authority G.S. 113-134; 113-174; 113-182; 143B-289.52;*
20 *Eff. January 1, 1991;*
21 *Amended Eff. March 1, 1995; March 1, 1994; October 1, 1993; July 1, 1993;*
22 *Recodified from 15A NCAC 03I .0001 Eff. December 17, 1996;*
23 *Amended Eff. April 1, 1999; August 1, 1998; April 1, 1997;*
24 *Temporary Amendment Eff. May 1, 2000; August 1, 1999; July 1, 1999;*
25 *Amended Eff. August 1, 2000;*
26 *Temporary Amendment Eff. August 1, 2000;*
27 *Amended Eff. May 1, 2015; April 1, 2014; April 1, 2011; April 1, 2009; October 1, 2008; December*
28 *1, 2007; December 1, 2006; September 1, 2005; April 1, 2003; April 1, 2001;*
29 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03I .0104 is readopted with changes as published in 36:07 NCR 460-461 as follows:

2
3 **15A NCAC 03I .0104 INTRODUCE, ~~TRANSFER-TRANSFER,~~ OR HOLD IMPORTED MARINE AND**
4 **ESTUARINE ORGANISMS**

5 (a) ~~In order to~~ To protect the marine and estuarine resources of North Carolina from unacceptable risks from predators,
6 pests, parasites, and disease, it ~~is shall be unlawful, except for American eels imported from Maryland, Virginia, or~~
7 South Carolina for use in an aquaculture operation, without first obtaining a permit Permit to Introduce, Transfer, or
8 Hold Imported Marine and Estuarine Organisms from the Fisheries Director or without obtaining live marine ~~and or~~
9 estuarine organisms from a ~~permit holder~~ permittee to:

- 10 (1) ~~To~~ place into the coastal fishing waters-Coastal Fishing Waters of the ~~state~~ State live marine ~~and or~~
11 estuarine organisms ~~not native non-native~~ to the ~~state~~ State. For the purpose of this Rule, this action
12 is an introduction.
- 13 (2) ~~To~~ place into the coastal fishing waters of the ~~state~~ State live marine ~~and or~~ estuarine organisms
14 ~~which that~~ are native but ~~which that~~ originated outside the State's boundaries. For the purpose of
15 this Rule, this action is a transfer.
- 16 (3) ~~To~~ hold or maintain any live marine or estuarine ~~organism-organisms, including non-native species~~
17 that may thrive if introduced into Coastal Fishing Waters, imported into the ~~state~~ State in a
18 quarantine or isolation system for live bait or use in an aquaculture operation as defined in ~~15A~~
19 NCAC 03I .0101. Rule .0101 of this Section.
- 20 (4) ~~To~~ sell for bait any live marine or estuarine ~~organism-organisms, including non-native species that~~
21 may thrive if introduced into Coastal Fishing Waters, imported into the ~~state~~ State.

22 (b) Any person desiring to obtain a Permit to Introduce, ~~Transfer-Transfer,~~ or Hold Imported Marine and Estuarine
23 Organisms ~~must make written~~ shall submit a complete application to the Division of Marine Fisheries, 3441 Arendell
24 Street, P.O. Box 769, Morehead City, NC 28557-0769-28557. The procedures and requirements for obtaining permits
25 are found in 15A NCAC 03O .0500. ~~In order for~~ For the Fisheries Director to determine the level of risk to any native
26 marine or estuarine resource or the environment, the applicant shall ~~provide~~ also provide a certification from a:

- 27 (1) ~~A certification from a~~ pathologist that a sample of 60 organisms from proposed shipments are
28 disease free or a certification from a governmental veterinary service that the organisms to be
29 shipped were produced in an area or facility free of diseases posing a risk to North Carolina's marine
30 or estuarine resources, or their environment, as determined by the Fisheries Director; and
- 31 (2) ~~A certification from a~~ biologist or veterinarian that macroscopic and microscopic examination
32 indicates the shipment contains only those ~~species-species, sizes, and quantities~~ identified on the
33 permit application.

34 (c) The Fisheries Director shall require disinfection, quarantine-quarantine, or destruction of organisms and transfer
35 materials as a condition of the permit, upon finding the importation poses a risk to North Carolina's marine or estuarine
36 resources, or their environment.

1 (d) The Fisheries Director may hold public meetings prior to granting permits for activities specified in Paragraph (a)
2 of this Rule to gather information concerning risks to native marine or estuarine resources or the environment.

3

4 *History Note: Authority G.S. 113-134; 113-170; 113-182; 143B-289.52; S.L. 2017-190; S.L. 2018-114;*

5 *Eff. January 1, 1991;*

6 *Amended Eff. November 1, 1991;*

7 *Recodified from 15A NCAC 3I .0004 Eff. December 17, 1996;*

8 *Amended Eff. April 1, 2009;*

9 *Amended Eff. (Pending legislative review pursuant to S.L. 2017-190 and S.L. 2019-198).*

1 15A NCAC 03I .0105 is readopted with changes as published in 36:07 NCR 461 as follows:

2
3 **15A NCAC 03I .0105 LEAVING DEVICES UNATTENDED**

4 (a) It ~~is shall be~~ unlawful to leave stakes, anchors, nets, buoys, or floating devices in ~~any coastal fishing waters when~~
5 Coastal Fishing Waters if such devices are not being employed in commercial fishing operations, except
6 as otherwise provided by rule or General Statute.

7 (b) It shall be unlawful to use or possess fishing equipment in Coastal Fishing Waters in violation of this Section or
8 that contains edible species of fish unfit for human consumption.

9 ~~(b)(c)~~ It ~~is shall be~~ unlawful to leave pots in ~~any coastal fishing waters~~ Coastal Fishing Waters for more than five
10 consecutive ~~days, when~~ days if such pots are not being employed in commercial fishing operations, except upon a
11 timely and sufficient showing of hardship as ~~defined set forth in Subparagraph (b)(2) Paragraph [(e)],(d)~~ of this Rule
12 or as otherwise provided by General Statute. The Fisheries Director may, by proclamation, modify the five-day
13 requirement if necessary due to hurricanes, tropical storms, other severe weather events recognized by the National
14 Weather Service, or other variable conditions pursuant to 15A NCAC 03H .0103. (1) — Agents of the Fisheries
15 Director Inspectors may tag pots with a device approved by the Fisheries Director to aid and assist in the investigation
16 and identification of unattended pots. Any such device attached to a pot by agents of the Fisheries Director ~~must shall~~
17 be removed by the individual ~~utilizing~~ using the pot within five days of attachment in order to demonstrate that the
18 pot is being employed in commercial fishing operations.

19 ~~(d) (2) For the purposes of Paragraph (b) of this Rule only, purpose of this Rule,~~ a timely and sufficient showing of
20 hardship in a commercial fishing operation shall be ~~written notice given a~~ statement in writing from the owner of the
21 pot or the owner's immediate family, as defined in G.S. 113-168, submitted to the Fisheries Director that a mechanical
22 breakdown of the pot owner's vessel(s) vessel currently registered with the Division of Marine Fisheries under
23 pursuant to G.S. 113-168.6, or the death, illness illness, or incapacity of the owner of the pot or his the owner's
24 immediate family, as defined in G.S. 113-168, family prevented or will prevent employing such pots in commercial
25 fishing operations for more than five consecutive days. The notice, specifying the time needed because of hardship,
26 shall be received by the Fisheries Director before any pot is left in coastal fishing waters for five consecutive days
27 without being employed in fishing operations, and shall state, in addition to the following, Statements and supporting
28 documentation shall be mailed to the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead
29 City, NC 28557. Mailing a statement does not automatically exempt a fisherman from the requirements of this Rule.
30 The statement shall specify the number and specific location of the pots, and the date on by which the pots will be
31 employed in commercial fishing operations or removed from coastal fishing waters: Coastal Fishing Waters, and:

32 (A)(1) in the case of a mechanical breakdown, the ~~notice shall state the commercial fishing vessel~~
33 registration Commercial Fishing Vessel Registration number, owner's N.C. motor boat registration
34 number of the disabled vessel, date disabled, and description of the arrangements being made to
35 repair the vessel or a copy of the work order showing the name, ~~address address,~~ and phone number
36 of the repair facility; or

1 ~~(B)(2)~~ in the case of the death, illness-illness, or incapacity of the owner of the pot or his-the owner's
2 immediate family, ~~the notice shall state~~ the name of the owner or immediate family ~~member,~~
3 member and either the date of death, the date and nature death or the date of the illness or incapacity.
4 The Fisheries Director may require a doctor's verification ~~of that~~ the illness or ~~incapacity-incapacity~~
5 occurred.

6 ~~(c) (3)~~ The Fisheries Director may, by proclamation, modify the five day requirement, if necessary due to hurricanes,
7 ~~severe weather or other variable conditions. Failure~~ It shall be unlawful to fail to employ in commercial fishing
8 operations or remove from ~~coastal fishing waters-Coastal Fishing Waters~~ all pots for which ~~notice of a hardship request~~
9 is ~~received-granted~~ under this Rule within 14 days of the expiration of the ~~hardship shall be violation of this~~
10 ~~Rule-hardship.~~

11 ~~(e) It is unlawful to set or have any fishing equipment in coastal fishing waters in violation of this Section or which~~
12 ~~contains edible species of fish unfit for human consumption.~~

13
14 *History Note:* *Authority G.S. 113-134; 113-136; 113-137; 113-182; 143B-289.52;*
15 *Eff. January 1, 1991;*
16 *Amended Eff. March 1, 1996;*
17 *Recodified from 15A NCAC 03I .0005 Eff. December 17, 1996;*
18 *Amended Eff. April 1, 1997;*
19 *Temporary Amendment Eff. July 1, 1999;*
20 *Amended Eff. September 1, 2005; August 1, 2000;*
21 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03I .0113 is readopted as published in 36:07 NCR 462 as follows:

2

3 **15A NCAC 03I .0113 BIOLOGICAL SAMPLING**

4 It ~~is shall be~~ unlawful for any licensee under Chapter 113, Subchapter IV, of the General Statutes to refuse to allow
5 the Fisheries Director or ~~his the Fisheries Director's~~ agents to obtain biological data, harvest information, or other
6 statistical data necessary or useful to the conservation and management of marine and estuarine resources from fish
7 in the licensee's possession. Such data shall include, but is not limited to, species identification, length, weight, age,
8 sex, number, area of catch, harvest method, and quantity of catch.

9

10 *History Note: Authority G.S. 113-134; 113-170.3; ~~113-170.4~~; 113-174.1; 113-182; 143B-289.52;*

11 *Eff. October 1, 1992;*

12 *Recodified from 15A NCAC 3I .0013 Eff. December 17, 1996;*

13 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03I .0114 is readopted with changes as published in 36:07 NCR 462-463 as follows:

2
3 **15A NCAC 03I .0114 RECORDKEEPING REQUIREMENTS**

4 (a) It ~~is~~ shall be unlawful for a licensed fish dealer:

5 (1) ~~To~~ to record false information on the North Carolina trip ticket or to fail to complete accurately and
6 legibly record all mandatory items on the North Carolina trip ticket for each transaction and submit
7 the trip ticket in accordance with G.S. ~~113-168.2;~~ 113-168.2, including the following:

8 (A) fisherman's name;

9 (B) fisherman's North Carolina license number;

10 (C) dealer's North Carolina license number;

11 (D) start date of trip, including year, month, and day;

12 (E) unload date of trip, including year, month, and day;

13 (F) North Carolina Division of Marine Fisheries Vessel Identification Number or indicate if
14 no vessel was used;

15 (G) crew size;

16 (H) gear fished;

17 (I) waterbody fished;

18 (J) species landed;

19 (K) quantity of each species landed in pounds, numbers of fish, bushels, or other units of
20 measurement;

21 (L) disposition of species;

22 (M) transaction number;

23 (N) number of crab pots or peeler pots fished, if applicable;

24 (O) state where species was taken if other than North Carolina;

25 (P) lease number, if applicable;

26 (Q) bottom type, if applicable; and

27 (R) shellfish harvest area, if applicable.

28 (2) ~~To~~ to fail to provide to the Division [~~of Marine Fisheries~~] a Trip Ticket Submittal/Transaction form
29 indicating the number of transactions that occurred during the previous month;

30 (3) ~~To~~ to fail to make paper copies or electronic copies of trip tickets or N.C. Trip Ticket Program Dock
31 Tickets available at the dealer location for inspection by Marine Patrol Fisheries inspectors;

32 (4) ~~To~~ to fail to submit trip tickets to the Division via electronic file transfer if that dealer reported an
33 annual average of greater than 50,000 pounds of finfish for the previous three calendar years.
34 Dealers subject to the electronic reporting requirement shall be notified by the Division via certified
35 mail and within 120 days of receipt shall:

36 (A) ~~Initiate~~ initiate electronic file transfer of trip tickets; and

1 (B) ~~Continue~~continue to report by electronic file transfer until the dealer no longer holds a fish
2 dealer license with finfish or consolidated categories;

3 (5) ~~To~~to fail to use software or web-based utilities authorized by the Division when reporting
4 electronically. Electronic submittals shall meet all other recordkeeping requirements in accordance
5 with G.S. 113-168.2; electronically; and

6 (6) ~~To~~to fail to keep all trip tickets and all supporting documentation for each transaction including
7 receipts, checks, bills of lading, records, electronic ~~files~~files, and accounts for a period of not less
8 than three years.

9 (b) It ~~is~~shall be unlawful for a seller licensed under G.S. 113, Article 14A or donor to fail to provide to the fish dealer,
10 at the time of transaction, the following:

11 (1) ~~A~~a current and valid license or permit to sell the type of fish being offered and if a vessel is used,
12 the ~~commercial fishing vessel registration; Commercial Fishing Vessel Registration;~~ and

13 (2) ~~Complete~~complete and accurate information on harvest method and area of catch and other
14 information required by the Division, in accordance with G.S. 113-168.2 and G.S. 113-169.3.

15 (c) It ~~is~~shall be unlawful to transport fish without having ready at hand for inspection a bill of consignment, bill of
16 lading, or other shipping documentation provided by the shipping dealer showing ~~thereon the name of the consignee,~~
17 ~~name of the shipper, the date of the shipment, and the quantity of each species of fish shipped.~~ the following items:

18 (1) name of the consignee;

19 (2) name of the shipper;

20 (3) date of the shipment;

21 (4) name of fish being shipped; and

22 (5) quantity of each fish being shipped.

23 In the event the fisherman taking the fish is also a licensed fish dealer and ships from the point of landing, all shipping
24 records shall be recorded at the point of landing. Fishermen who transport their fish directly to licensed fish dealers
25 are exempt from this ~~Paragraph of this Rule.~~Paragraph.

26 (d) It ~~is~~shall be unlawful to export fish landed in the State in a commercial fishing operation without a North Carolina
27 licensed fish dealer completing all the ~~record keeping~~recordkeeping requirements in G.S. 113-168.2(i).

28 (e) It ~~is~~shall be unlawful to offer for sale fish purchased from a licensed fish dealer without having ready at hand for
29 inspection by Marine ~~Patrol~~Fisheries inspectors or other ~~agent~~agents of the Fisheries Director written documentation
30 of purchase showing ~~thereon the name of the licensed dealer, name of the purchaser, date of the purchase, and the~~
31 ~~quantity of each species purchased.~~ the following items:

32 (1) name of the licensed fish dealer;

33 (2) name of the purchaser;

34 (3) date of the purchase;

35 (4) name of fish purchased; and

36 (5) quantity of each fish purchased.

1 (f) It ~~is~~ shall be unlawful for a holder of a Fish ~~Dealer's~~ Dealer License to have fish in possession at a licensed location
2 without written documentation from a licensed fish dealer or a completed North Carolina ~~Marine Fisheries Trip Ticket~~
3 trip ticket to show the quantity and origin of all fish.

4
5 *History Note: Authority G.S. 113-134; 113-168.2; 113-168.3; 113-169.3; 113-170; 113-170.3; 113-170.4; 113-*
6 *182; 143B-289.52;*
7 *Eff. March 1, 1994;*
8 *Recodified from 15A NCAC 3I .0014 Eff. December 17, 1996;*
9 *Temporary Amendment Eff. July 1, 1999;*
10 *Amended Eff. June 1, 2013; August 1, 2000;*
11 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03I .0118 is readopted as published in 36:07 NCR 463 as follows:

2

3 **15A NCAC 03I .0118 DISPOSAL OF EVIDENCE**

4 It ~~is shall be~~ unlawful for any person to dispose of ~~fish or fish, parts thereof, of fish, fishing equipment or gear, or~~
5 other matter ~~in any manner, preparatory to, during, or subsequent to the taking of fish~~ after any communication or
6 signal from an inspector, or after the approach of an inspector or an enforcement vessel.

7

8 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

9 *Eff. March 1, 1996;*

10 *Recodified from 15A NCAC 3I .0018 Eff. December 17, 1996;*

11 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03J .0101 is readopted with changes as published in 36:07 NCR 463 as follows:

2
3 **SUBCHAPTER ~~3J~~03J - NETS, POTS, DREDGES, AND OTHER FISHING DEVICES**

4
5 **SECTION .0100 - NET RULES, GENERAL**

6
7 **15A NCAC 03J .0101 FIXED OR STATIONARY NETS**

8 It ~~is~~ shall be unlawful to use or set fixed or stationary ~~nets;~~ nets for any of the following:

- 9 (1) ~~In in~~ the channel of the Intracoastal ~~Waterway or in any other location where it may constitute a~~
10 ~~hazard to navigation;~~ Waterway;
- 11 (2) ~~So as~~ to block more than two-thirds of ~~any a~~ natural or manmade waterway, sound, river, bay, creek,
12 ~~inlet inlet,~~ or any other body of ~~water;~~ water under the authority of the Marine Fisheries Commission;
- 13 (3) ~~In in~~ the middle third of ~~any marked a~~ navigation ~~channel;~~ channel marked by State or federal
14 agencies; or
- 15 (4) ~~In the channel third of the following rivers: Roanoke, Cashie, Middle, Eastmost, Chowan, Little,~~
16 ~~Perquimans, Pasquotank, North, Alligator, Pungo, Pamlico, and Yeopim.~~
- 17 (4) in a location where it may interfere with navigation.

18
19 *History Note:* Authority G.S. 113-134; 113-181; 113-182; 143B-289.52;
20 *Eff. January 1, 1991;*
21 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03J .0105 is readopted with changes as published in 36:07 NCR 463-464 as follows:

2
3 **15A NCAC 03J .0105 PURSE SEINES**

4 (a) It ~~is~~ shall be unlawful to use purse seines except for the taking of menhaden, Atlantic thread herring, gizzard ~~shad~~
5 shad, or ~~pinfish~~, as further restricted by Paragraphs (b) and (c) of this Rule. pinfish.

6 (b) It ~~is~~ shall be unlawful to ~~take menhaden, Atlantic thread herring, gizzard shad or pinfish with~~ use a purse seine in
7 ~~violation of any of the following limitations:~~ accordance with the following:

8 (1) ~~In in~~ the Atlantic Ocean ~~during the periods and within an area as~~ described: ~~described~~

9 ~~[(A) — by Session Law 2012-190; and]~~

10 ~~(A) [(B)] In in~~ 15A NCAC 03R 0111, .0111.

11 ~~(B) By Session Law 2007-320.~~

12 (2) ~~Except~~ except as provided in ~~Subparagraph (5) of this Paragraph,~~ Paragraph (c) of this Rule, between
13 January 16 and May 14 in:

14 (A) ~~Internal waters,~~ internal waters; and

15 (B) ~~the~~ the Atlantic Ocean within one mile of shore.

16 (3) ~~Between~~ between January 16 and March 31 in Core Sound.

17 (4) ~~In internal waters except in:~~

18 (A) ~~— Pamlico Sound,~~

19 (B) ~~— Pamlico River east of a line from Wades Point to Intraoastal Waterway Marker No. 1 at~~
20 ~~the mouth of Goose Creek,~~

21 (C) ~~— Neuse River east of a line from Wilkinson Point to Cherry Point,~~

22 (D) ~~— Adams Creek,~~

23 (E) ~~— Core Sound and its tributaries,~~

24 (F) ~~— Back Sound, the Straits, and North river,~~

25 (G) ~~— Newport River,~~

26 (H) ~~— North River, and~~

27 (I) ~~— Bogue Sound.~~

28 (4) from beyond one mile of shore in the Atlantic Ocean and transported to port between sunset on any
29 Friday and sunrise of the following Monday from the Friday of the Memorial Day weekend through
30 sunset on Labor Day.

31 (5) from beyond one mile of shore in the Atlantic Ocean and transported to port between the hours of
32 sunrise and sunset on the following holidays:

33 (A) Memorial Day;

34 (B) Fourth of July, when the Fourth of July falls on any calendar day Friday through Monday;

35 and

36 (C) Labor Day.

1 ~~(5)(c)~~ The Fisheries Director may, by proclamation, open the Atlantic Ocean within one mile of shore and the internal
2 waters specified in ~~Subparagraph (4) of this Paragraph~~ (d) of this Rule between April 1 and May 14, and may impose
3 any ~~or all~~ of the following restrictions:

4 (1) ~~specify time;~~

5 (2) ~~specify area;~~

6 ~~(A)(3) Specify specify means and methods by area which may be employed in the taking; methods;~~

7 (4) ~~specify record keeping requirements;~~

8 (5) ~~specify season; and~~

9 ~~(B)(6) Limit the quantity; and specify quantity.~~

10 ~~(C) Require submission of statistical and biological data.~~

11 (d) The internal waters specified in Paragraph (c) of this Rule are as follows:

12 (1) Pamlico Sound;

13 (2) Pamlico River east of a line from Wades Point to Intracoastal Waterway Marker No. 1 at the mouth
14 of Goose Creek;

15 (3) Neuse River east of a line from Wilkinson Point to Cherry Point;

16 (4) Adams Creek;

17 (5) Core Sound and its tributaries;

18 (6) Back Sound, the Straits, and North River;

19 (7) Newport River;

20 (8) North River; and

21 (9) Bogue Sound.

22 ~~(e)(c)~~ Menhaden, Atlantic thread herring, gizzard shad ~~shad~~, or pinfish may be taken at any time with a purse seine
23 from beyond one mile of shore in the Atlantic Ocean and transported to port except as specified by Session Law 2007-
24 320-2012-190 and Subparagraphs (b)(4) and (b)(5) ~~[and (b)(6)]~~ of this Rule, and except as prohibited below:

25 (1) ~~It is unlawful to take menhaden, Atlantic thread herring, gizzard shad shad, or pinfish by use of a~~
26 ~~purse seine between sunset on any Friday and sunrise of the following Monday from the Friday of~~
27 ~~the Memorial Day weekend through sunset on Labor Day each year.~~

28 (2) ~~It is unlawful to take menhaden, Atlantic thread herring, gizzard shad shad, or pinfish by use of a~~
29 ~~purse seine between the hours of sunrise and sunset on the following holidays:~~

30 (A) ~~Memorial Day;~~

31 (B) ~~Fourth of July, when the Fourth of July falls on any calendar day Friday through Monday;~~
32 ~~and~~

33 (C) ~~Labor Day.~~

34 ~~(d)(f)~~ It ~~is shall~~ be unlawful for the responsible party to fail to carry out the following requirements when a fish spill
35 from a purse seine occurs:

- 1 (1) ~~Immediately within two hours of the spill, notify the office of the Fisheries Director of the North~~
2 ~~Carolina~~ Division of Marine Fisheries Communications Center of such spill; the spill by phone at
3 800-682-2632 or 252-726-7021; and
- 4 (2) ~~Report~~ report to the Fisheries Director of the North Carolina Division of Marine Fisheries in writing
5 within 30 days of the completion of spill clean-up on the circumstances associated with each spill
6 and costs of its clean-up.

7

8 *History Note: Authority G.S. 113-134; 113-182; 113-187; 113-221.1; 143B-289.52;*

9 *Eff. January 1, 1991;*

10 *Amended Eff. October 1, 2008;*

11 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03J .0109 is readopted as published in 36:07 NCR 464-465 as follows:

2
3 **15A NCAC 03J .0109 ~~LONG HAUL FISHING OPERATIONS, IDENTIFICATION~~ LONG HAUL AND**
4 **SWIPE NET REQUIREMENTS**

5 It ~~is shall be~~ unlawful to ~~tow or pull~~ use a net in a ~~long haul~~ long haul or swipe net fishing ~~excluding operations with~~
6 ~~nets made entirely of monofilament and having a mesh length of three inches or greater~~ operation:

- 7 (1) ~~Without~~ without a floating buoy ~~that shall be international orange, no less than five inches in~~
8 ~~diameter, and no less than 11 inches in length~~ attached a minimum of every 100 yards along the
9 cork line. ~~The buoy shall be international orange and shall be no less than five inches in diameter~~
10 ~~and no less than 11 inches in length; and~~ line;
- 11 (2) ~~Without~~ without a flag, ~~flag that shall be~~ square in shape, international orange in color, and at least
12 24 inches by 24 inches in ~~size, size~~ flying in the rigging so as to be visible when approaching the
13 vessel from any ~~direction~~ direction; and
- 14 (3) ~~In~~ in the ~~internal coastal waters~~ Internal Coastal Waters south and west of a line beginning on the
15 west shore of Pamlico Sound at Bluff Point at a point 35° 19.5333' N – 76° 09.3333' W; running
16 southeasterly to Ocracoke Island to a point 35° 08.0000' N – 75° 55.0000' ~~W, W~~; without escape
17 panels as follows:
- 18 (a) ~~For~~ for long haul operations, two panels four feet deep and six feet long ~~shall be~~ installed
19 with the entire panel within 10 feet of the staff on the end of the bunt net from which the
20 fish are being ~~bailed~~. ~~The~~ bailed, with panels ~~shall be~~ in the water while fish are
21 ~~harvested~~ harvested;
- 22 (b) ~~For~~ for swipe net operations, two panels three feet deep and five feet long ~~shall be~~ installed
23 with the entire panel within 10 feet of the staff on the end of the bunt net from which the
24 fish are being ~~bailed~~. ~~The~~ bailed, with panels ~~shall be~~ in the water while fish are
25 ~~harvested~~ harvested;
- 26 (c) ~~The~~ the upper edge of one panel ~~shall be~~ installed within 12 to 24 inches of the float line
27 and the lower edge of the other panel ~~shall be~~ installed within 12 to 24 inches of the lead
28 ~~line~~ line; and
- 29 (d) ~~The~~ panels ~~shall be~~ constructed of unobstructed trawl rings with ~~an~~ a minimum inside
30 diameter ~~no less than~~ of one and nine-sixteenth ~~inches (1 9/16")~~. ~~The~~ inches, with the rings
31 ~~shall be~~ fastened together at a maximum of four points per ring.

32
33 *History Note: Authority G.S. 113-134; 113-182; ~~143B-289.4; 143B-289.52;~~*
34 *Eff. January 1991;*
35 *Amended Eff. August 1, 2004; April 1, 1999;*
36 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03J .0110 is readopted with changes as published in 36:07 NCR 465 as follows:

2

3 **15A NCAC 03J .0110 SEINES**

4 It ~~is shall be~~ unlawful to use seines 30 feet or ~~over in length longer~~ for recreational purposes unless the net is marked
5 by attaching to the corkline ~~one a~~ floating buoy, any shade of hot pink in ~~color, which color~~. Buoys shall be of solid
6 foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The
7 ~~owner gear owner's last name and initials~~ shall always be identified engraved on the attached buoy using [an] engraved
8 ~~buoys buoy or~~ identified by attaching engraved metal or plastic tags to the buoy. ~~Such~~ If a vessel is used, the
9 identification shall also include ~~owner's last name and initials and if a vessel is used,~~ one of the following:

10 (1) ~~Gear gear~~ owner's current motor boat registration number; or

11 (2) ~~Owner's owner's~~ U.S. vessel documentation name.

12

13 *History Note: Authority G.S. 113-134; 113-173; 113-182; 143B-289.52;*

14 *Temporary Adoption Eff. July 1, 1999;*

15 *Eff. August 1, 2000;*

16 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03J .0301 is readopted with changes as published in 36:07 NCR 465-466 as follows:

2
3 **SECTION .0300 - POTS, DREDGES, AND OTHER FISHING DEVICES**

4
5 **15A NCAC 03J .0301 POTS**

6 (a) It ~~is~~ shall be unlawful to use pots except during time periods and in areas specified herein:

7 (1) ~~In Coastal Fishing in Internal Waters from December 1 through May 31, except that that:~~

8 (A) in the Northern Region designated in 15A NCAC 03R .0118(1) all pots shall be removed
9 from Internal Waters from January 15-1 through February 7- January 31. Fish pots upstream
10 of the U.S. 17 Bridge across Chowan River and upstream of a line across the mouth of
11 Roanoke, Cashie, Middle, and Eastmost Rivers to the Highway 258 Bridge are exempt
12 from the January 15 through February 7 this removal requirement. The Fisheries Director
13 may, by proclamation, reopen various waters to the use of pots after January 19 if it is
14 determined that such waters are free of pots.

15 (B) in the Southern Region designated in 15A NCAC 03R .0118(2) all pots shall be removed
16 from Internal Waters from March 1 through March 15.

17 (2) ~~From in Internal Waters from June 1 through November 30, north and east of the Highway 58 Bridge~~
18 ~~at Emerald Isle: 30 in the Northern Region designated in 15A NCAC 03R .0118(1):~~

19 (A) ~~In in areas described in 15A NCAC 03R .0107(a); 0107(a).~~

20 (B) ~~To to~~ allow for the variable spatial distribution of crustacea and finfish, the Fisheries
21 Director may, by proclamation, specify time periods for ~~or~~ and designate the areas
22 described in 15A NCAC 03R .0107(b); .0107(b) or any part thereof, for the use of pots.

23 (3) ~~From in Internal Waters from May 1 through November 30 in the Atlantic Ocean and west and south~~
24 ~~of the Highway 58 Bridge at Emerald Isle in areas and during time periods designated by the~~
25 ~~Fisheries Director by proclamation. Southern Region designated in 15A NCAC 03R .0118(2), the~~
26 Fisheries Director may, by proclamation, specify time periods and areas for the use of pots.

27 (4) in the Atlantic Ocean from May 1 through November 30 the Fisheries Director may, by
28 proclamation, specify time periods and areas for the use of pots.

29 ~~The Fisheries Director may, by proclamation authority established in 15A NCAC 03L .0201, further restrict the use~~
30 ~~of pots to take blue crabs.~~

31 (b) It ~~is~~ shall be unlawful to use pots:

32 (1) in any navigation channel marked by State or Federal agencies; or

33 (2) in any turning basin maintained and marked by the North Carolina Ferry Division.

34 (c) It ~~is~~ shall be unlawful to use pots in a commercial fishing ~~operation, operation~~ unless each pot is marked by
35 attaching a floating buoy of any color except any shade of yellow or any shade of hot pink, or any combination of
36 colors that include any shade of yellow or any shade of hot pink. that Buoys shall be of solid foam or other solid
37 buoyant material and no less than five inches in diameter and no less than five inches in length. Buoys may be of any

1 color except yellow or hot pink or any combination of colors that include yellow or hot pink. The owner gear owner's
2 last name and initials shall always be identified engraved on the attached buoy by using [an] engraved buoys buoy or
3 identified by attaching engraved metal or plastic tags attached to the buoy. ~~The~~ If a vessel is used, the identification
4 shall also include one of the following:

- 5 (1) gear owner's current ~~motorboat~~ motor boat registration number; or
- 6 (2) gear owner's U.S. vessel documentation ~~name; or~~ name.
- 7 (3) ~~gear owner's last name and initials.~~

8 (d) Pots attached to shore or a pier shall be exempt from Subparagraphs (a)(2) and (a)(3) of this Rule.

9 (e) It ~~is~~ shall be unlawful to use shrimp pots with mesh lengths smaller than one and one-fourth inches stretch or five-
10 eighths-inch bar.

11 (f) It ~~is~~ shall be unlawful to use pots to take eels with mesh lengths smaller than one-half inch by one-half ~~inch,~~ except
12 until January 1, 2017 eel pots of any mesh length with an escape panel that is at least four inches square with a mesh
13 length of one inch by one half inch located in the outside panel of the upper chamber of rectangular pots and in the
14 rear portion of cylindrical pots shall be allowed. inch.

15 (g) ~~It is~~ Except for unbaited pots or pots baited with a male crab, it shall be unlawful to use crab pots in Coastal
16 Fishing Waters unless each pot contains no less than ~~two~~ three unobstructed escape rings that are at least two and ~~five~~
17 ~~sixteenths~~ five-sixteenth inches inside diameter and ~~and~~ located in the opposite outside panels of the upper chamber
18 of the pot, except the following are exempt from the escape ring requirements:

- 19 (1) ~~unbaited pots;~~
- 20 (2) ~~pots baited with a male crab; and~~
- 21 (3) ~~pots set in areas and during time periods described in 15A NCAC 03R .0118.~~

22 (1) for pots with a divider:

- 23 (A) two escape rings shall be located on opposite panels of the upper chamber of the pot; and
- 24 (B) at least one escape ring shall be located within one full mesh of the corner and one full
25 mesh of the bottom of the divider in the upper chamber of the pot.

26 (2) for pots without a divider:

- 27 (A) two escape rings shall be located on opposite panels of the pot; and
- 28 (B) at least one escape ring shall be located within one full mesh of the corner and one full
29 mesh of the bottom of the pot.

30 For the purpose of this Rule, a "divider" shall mean a panel that separates the crab pot into upper and lower sections.

31 (h) The Fisheries Director may, by proclamation, ~~exempt the escape ring requirements described in Paragraph (g) of~~
32 ~~this Rule in order to allow the harvest of mature female crabs and may impose~~ on a commercial fishing operation and
33 for recreational purposes any ~~or all of the following restrictions:~~ restrictions for pots:

- 34 (1) specify time;
- 35 (2) specify area;
- 36 (3) specify means and methods;
- 37 (4) specify requirements for a commercial fishing operation or for recreational purposes;

1 ~~(5)~~(4) specify record keeping and reporting requirements:

2 (4)~~(6)~~(5) specify seasons; and season, including a closed season for removal of all pots from Internal
3 Waters;

4 ~~(7)~~(6) specify species; and

5 ~~(5)~~(8)~~(7)~~ specify quantity.

6 (i) It ~~is~~shall be unlawful to use more than 150 crab pots per vessel in Newport River.

7 (j) It ~~is~~shall be unlawful to remove crab pots from the water or remove crabs from crab pots between one hour after
8 sunset and one hour before sunrise.

9 (k) It ~~is~~shall be unlawful to use pots to take crabs unless the line connecting the pot to the buoy is non-floating.

10 (l) It ~~is~~shall be unlawful to use pots with leads or leaders to take shrimp. For the purpose of this Rule, "leads" or
11 "leaders" ~~are defined as~~shall mean any fixed or stationary net or device used to direct fish into any gear used to capture
12 fish. Any device with leads or leaders used to capture fish shall not be a pot.

13
14 *History Note: Authority G.S. 113-134; 113-173; 113-182; 113-221.1; 143B-289.52;*

15 *Eff. January 1, 1991;*

16 *Amended Eff. August 1, 1998; May 1, 1997; March 1, 1996; March 1, 1994; October 1, 1992;*
17 *September 1, 1991;*

18 *Temporary Amendment Eff. July 1, 1999;*

19 *Amended Eff. August 1, 2000;*

20 *Temporary Amendment Eff. September 1, 2000;*

21 *Amended Eff. May 1, 2015; April 1, 2014; September 1, 2005; August 1, 2004; August 1, 2002;*

22 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03J .0302 is readopted as published in 36:07 NCR 466 as follows:

2

3 **15A NCAC 03J .0302 RECREATIONAL USE OF POTS**

4 (a) It ~~is shall be~~ unlawful for a Recreational Commercial Gear License holder to use pots authorized by 15A NCAC
5 03O .0302 unless each pot is marked by attaching ~~one a~~ floating buoy, any shade of hot pink in ~~color, which color.~~
6 Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five
7 inches in length. The ~~owner gear owner's last name and initials~~ shall ~~always~~ be identified on the attached buoy using
8 an engraved buoys buoy or by attaching engraved metal or plastic tags to the buoy. ~~Such~~ If a vessel is used, the
9 identification shall also include ~~the owner's last name and initials and if a vessel is used,~~ one of the following:

10 (1) ~~Gear gear~~ owner's current motor boat registration ~~number, number;~~ or

11 (2) ~~Owner's owner's~~ U.S. vessel documentation name.

12 (b) It ~~is shall be~~ unlawful for a person to use more than one crab pot attached to the shore along privately owned land
13 or to a privately owned pier without possessing a valid Recreational Commercial Gear License.

14

15 *History Note: Authority G.S. 113-134; 113-173; 113-182; 143B-289.52;*

16 *Eff. January 1, 1991;*

17 *Temporary Amendment Eff. July 1, 1999;*

18 *Amended Eff. April 1, 2011; August 1, 2000;*

19 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03J .0305 is readopted with changes as published in 36:07 NCR 466 as follows:

2
3 **15A NCAC 03J .0305 TROTLINES (MULTIPLE HOOK OR MULTIPLE BAIT)**

4 ~~(a) It is shall be~~ unlawful to use multiple hook or multiple bait trotlines for recreational purposes unless ~~such trotlines~~
5 ~~are each~~ multiple hook or multiple bait trotline is marked by attaching to them at each end ~~one a~~ floating buoy, any
6 shade of hot pink in ~~color, which~~ color. Buoys shall be of solid foam or other solid buoyant material no less than five
7 inches in diameter and no less than five inches in length. The ~~owner gear~~ owner's last name and initials shall always
8 be ~~identified engraved~~ on the attached buoy ~~by using an engraved buoy~~ or identified by attaching engraved metal or
9 plastic tags to the buoy. ~~Such~~ If a vessel is used, the identification shall also include owner's last name and initials and
10 ~~if a vessel is used,~~ one of the following:

- 11 (1) ~~Gear gear~~ owner's current motor boat registration number, number; or
12 (2) ~~Owner's gear~~ owner's U.S. vessel documentation name.

13 ~~(b) It shall be~~ unlawful to use multiple hook or multiple bait trotlines in a commercial fishing operation unless each
14 ~~multiple hook or multiple bait trotline is marked by attaching to them at each end a floating buoy of any color except~~
15 ~~any shade of yellow or any shade of hot pink, or any combination of colors that include any shade of yellow or any~~
16 ~~shade of hot pink. Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter~~
17 ~~and no less than five inches in length. The gear owner's last name and initials shall be~~ identified engraved on the
18 attached buoy ~~by using an engraved buoy~~ or identified by attaching engraved metal or plastic tags to the buoy. If a
19 vessel is used, the identification shall also include one of the following:

- 20 (1) gear owner's current motor boat registration number; or
21 (2) gear owner's U.S. vessel documentation name.

22
23 *History Note: Authority G.S. 113-134; 113-173; 113-182; 143B-289.52;*
24 *Temporary Adoption Eff. July 1, 1999;*
25 *Eff. August 1, 2000;*
26 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03J .0501 is readopted with changes as published in 36:07 NCR 467-468 as follows:

2
3 **SECTION .0500 – POUND NETS**

4
5 **15A NCAC 03J .0501 DEFINITIONS AND STANDARDS FOR POUND NETS AND POUND NET SETS**

6 (a) ~~For the purpose of this Section the following terms are hereby defined:~~The following definitions shall apply to
7 this Section:

8 (1) ~~Pound Net Set Permit. A Division authorization to set and fish a pound net set in a commercial~~
9 ~~fishing operation in a specified location in a specified fishery.~~

10 (2) ~~Permit period. One year from the date of issuance of a new or renewal pound net set permit.~~

11 (3)(1) ~~Deployed pound net. Setting "Deployed pound net" means setting of any part of a pound net, net~~
12 ~~except for a location identification stake or or, for a pound net used in the Atlantic Ocean-Ocean, a~~
13 ~~location identification buoy placed at each end of a proposed new location.~~

14 (2) "Flounder pound net" means a pound net set that produces a catch consisting of 50 percent or more
15 flounder by weight of the entire landed catch, excluding blue crabs or a pound net set with all pounds
16 (holding pen) constructed of four inch stretch mesh or greater.

17 (4)(3) ~~Operational pound net set. A "Operational pound net set" means a pound net set as defined in 15A~~
18 ~~NCAC 03I .0101 and deployed according to rules and permit conditions with net attached to stakes~~
19 ~~or anchors for the lead and pound, including only a single pound in a multi-pound set, and a non-~~
20 ~~restricted opening leading into the pound such that the set is able to catch and hold fish.~~

21 (4) "Permit period" means from the date of issuance of a new or renewal Pound Net Set Permit to the
22 expiration date.

23 (5) "Pound Net Set Permit" means a Division of Marine Fisheries authorization to set and fish a pound
24 net set in a commercial fishing operation in a specified location in a specified fishery.

25 (5) ~~Flounder pound net. A pound net set that produces a catch consisting of 50 percent or more flounder~~
26 ~~by weight of the entire landed catch, excluding blue crabs or a pound net set with all pounds (holding~~
27 ~~pen) constructed of four inch stretch mesh or greater.~~

28 (6) ~~Shrimp pound net. A "Shrimp pound net" means a pound net set with all pounds (holding pen)~~
29 ~~constructed of stretch mesh equal to or greater than one and one-fourth inches and less than or equal~~
30 ~~to two inches.~~

31 (b) ~~It is shall be~~ unlawful for a pound net used in a commercial fishing operation to:

32 (1) ~~Be be~~ deployed on a site without first obtaining a Pound Net Set Permit from the Fisheries Director.

33 (2) ~~Fail fail~~ to be operational for a minimum of 30 consecutive days during the ~~pound net set permit~~
34 ~~period unless Pound Net Set Permit period, except the Fisheries Director may, by proclamation,~~
35 waive this requirement if a season for the fishery for which the pound net set is permitted is ended
36 earlier due to a quota being met, met or for compliance with the N.C. Southern Flounder Fishery
37 Management Plan.

1 (c) It ~~is shall be~~ unlawful for a pound net set in a commercial fishing operation in coastal fishing waters to fail to:

- 2 (1) ~~Have have~~ the permittee's identification legibly printed on a sign no less than six inches square,
3 securely attached to a stake at the permitted ends of each set at all times. For pound net sets in the
4 Atlantic Ocean using anchors instead of stakes, the set shall be identified with a yellow ~~buoy, which~~
5 buoy that shall be of solid foam or other solid buoyant material no less than five inches in diameter
6 and no less than 11 inches in length. The permittee's identification shall be legibly printed on the
7 buoy. The identification on signs or buoys shall include the Pound Net Set Permit number and the
8 permittee's last name and initials.
- 9 (2) ~~Have have~~ yellow light reflective tape or yellow light reflective devices on each pound. The yellow
10 light reflective tape or yellow light reflective devices shall be affixed to a stake of at least three
11 inches in diameter on any outside corner of each pound, shall cover a vertical distance of not less
12 than 12 inches, and shall be visible from all directions.
- 13 (3) ~~Have have~~ a marked navigational opening at least 25 feet wide at the end of every third pound. The
14 opening shall be marked with yellow light reflective tape or yellow light reflective devices on each
15 side of the opening. The yellow light reflective tape or yellow light reflective devices shall be affixed
16 to a stake of at least three inches in diameter, shall cover a vertical distance of not less than 12
17 inches, and shall be visible from all directions.

18 If a permittee notified of a violation under this Paragraph fails or refuses to take corrective action sufficient to remedy
19 the violation within 10 days of receiving notice of the violation, the Fisheries Director shall revoke the permit.

20 (d) It ~~is shall be~~ unlawful to use a Recreational Commercial Gear License (RCGL) shrimp pound net as defined in
21 15A NCAC 03O ~~.0302(a)(8) .0302(a)(8)~~ in coastal fishing waters unless the shrimp pound net is:

- 22 (1) ~~Marked marked~~ by attaching to the offshore lead, ~~one a~~ floating buoy, any shade of hot pink in ~~color,~~
23 ~~which is color.~~ Buoys shall be of solid foam or other solid buoyant material no less than five inches
24 in diameter and no less than five inches in length. The ~~owner gear owner's last name and initials~~
25 shall be identified engraved on the attached buoy ~~by using an engraved buoy~~ or identified by
26 attaching engraved metal or plastic tags to the buoy. ~~The If a vessel is used, the~~ identification shall
27 also include owner's last name and initials and if a vessel is used, one of the following:
- 28 (A) ~~Gear gear~~ owner's current motor boat registration number; or
29 (B) ~~Owner's gear owner's~~ U.S. vessel documentation name.
- 30 (2) ~~Set set~~ a minimum of 100 yards from a RCGL shrimp pound net set or 300 yards from an operational
31 commercial permitted shrimp pound net set.

32 (e) Escape Panels:

- 33 (1) The Fisheries Director may, by proclamation, require escape panels in pound net sets and may
34 impose any ~~or all~~ of the following requirements ~~or restrictions~~ on the use of escape panels:
- 35 (A) Specify specify size, number, and ~~location location~~;
36 (B) Specify specify mesh length, but not more than six ~~inches inches~~;
37 (C) Specify specify time or ~~season season~~; and

1 (D) ~~Specify~~ specify areas.
2 (2) It ~~is~~ shall be unlawful to use flounder pound net sets without four unobstructed escape panels in
3 each pound. The escape panels shall be fastened to the bottom and corner ropes on each wall on the
4 side and back of the pound opposite the heart. The escape panels shall be a minimum mesh size of
5 five and one-half inches, hung on the diamond, and shall be at least six meshes high and eight
6 meshes long.

7 (f) ~~During 1 December through 1 February the~~ The Fisheries Director shall by proclamation establish time periods
8 between December 1 through February 1 and areas where it ~~is~~ shall be unlawful to fail to remove all nets from pound
9 net sets in commercial fishing operations in internal coastal waters.

10 (g) It ~~is~~ shall be unlawful within 30 days of abandonment of a permitted pound net set to fail to remove all stakes and
11 associated gear from coastal fishing waters. The responsible party for abandoned pound net gear may be charged the
12 costs incurred by the Division when the Division undertakes removal of the abandoned pound net gear.

13
14 *History Note: Authority G.S. 113-134; 113-169.1; 113-181; 113-182; 113-221.1; 143B-289.52;*
15 *Eff. April 1, 2009;*
16 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03J .0502 is readopted with changes as published in 36:07 NCR 468-469 as follows:

2
3 **15A NCAC 03J .0502 POUND NET SET PERMIT APPLICATION AND PROCESSING**

4 (a) All initial, ~~renewal-renewal~~, or transfer applications for Pound Net Set Permits, and the operation of such pound
5 net sets, shall comply with the ~~rules-requirements~~ governing all permits as provided in 15A NCAC 03O .0502. The
6 procedures and requirements for obtaining permits are set forth in 15A NCAC 03O .0501.

7 (b) Applicants for Pound Net Set permits shall meet the following eligibility requirements as determined by the
8 Fisheries Director:

9 (1) ~~Applicant-the applicant~~ is an individual and not a corporation, partnership, ~~organization~~
10 ~~organization~~, or other entity;

11 (2) ~~Applicant-the applicant~~ has in the past complied with fisheries rules and laws and does not have any
12 licenses ~~or privileges~~ under suspension or ~~revocation-revocation~~ as set forth in 15A NCAC 03O
13 ~~.0114 or any pound net set permits under suspension or revocation as set forth in 15A NCAC 03O~~
14 ~~.0504~~. In addition, a history of habitual fisheries violations evidenced by eight or more convictions
15 ~~as specified in 15A NCAC 03O .0114, G.S. 14-223, Chapter 75A, or G.S. 76-40~~ in 10 years shall
16 make an individual ineligible.

17 (3) ~~Applicant-the applicant~~ has in the past complied with all permit conditions, ~~rules-rules~~, and laws
18 related to pound nets.

19 (4) ~~Applicant-the applicant~~ holds proper valid ~~license(s) and permit(s)~~ licenses and permits necessary
20 to fish the type of net indicated in the application.

21 (c) Applications for Pound Net Set permits shall include the following:

22 (1) ~~A-a~~ base map provided by the Division of Marine Fisheries indicating the proposed set location
23 including an inset vicinity map showing the location of the proposed set with detail sufficient to
24 permit on-site identification and location.

25 (2) ~~Declaration-declaration~~ of the type of pound net that will be deployed at the site. One of the
26 following pound net fisheries shall be specified:

27 (A) ~~Flounder-flounder~~ pound net set;

28 (B) ~~Bait-bait~~ pound net set;

29 (C) ~~Shrimp-shrimp~~ pound net set;

30 (D) ~~Blue-blue~~ crab pound net set; or

31 (E) ~~Other-other~~ finfish pound net set.

32 (d) For proposed new ~~location(s)-locations~~, the Fisheries Director shall issue a public notice of intent to consider
33 issuance of a Pound Net Set Permit allowing for public comment for 20 days, and after the comment period, may hold
34 public meetings to take comments on the proposed pound net set. If the Director does not approve or deny the
35 application within 90 days of receipt of a complete and verified application, the application ~~is-shall be~~ deemed denied.
36 The applicant shall be notified of denial in writing. Approval ~~is-shall be~~ conditional based upon the applicant's
37 continuing compliance with eligibility requirements set out in Paragraph (e) of this Rule and specific conditions

1 contained on the Pound Net Set Permit. The applicant may contest final decision to approve or deny the denial of a
2 Pound Net Set Permit application ~~may be appealed by the applicant~~ by filing a petition for a contested case hearing,
3 ~~in writing, within 60 days from the date of mailing notice of such final decision to the applicant, with the Office of~~
4 ~~Administrative Hearings under G.S. 150B-23.~~

5 (e) In order for a site to be deemed suitable for a pound net set, the proposed set location shall meet the following
6 criteria as determined by the Fisheries Director:

- 7 (1) ~~The the~~ proposed pound net set, either alone or when considered cumulatively with other existing
8 pound net sets in the area, will not interfere with ~~public~~ navigation or with existing, traditional uses
9 of the area other than navigation, and will not violate 15A NCAC 03J .0101 and .0102;
- 10 (2) ~~The the~~ proposed pound net set will not interfere with the rights of any riparian or littoral landowner,
11 including the construction or use of piers;
- 12 (3) ~~The the~~ proposed pound net set will not, by its proximate location, interfere with existing pound net
13 sets in the area. Flounder or other finfish pound net sets will be a minimum of 1,000 yards, as
14 measured in a perpendicular direction, from any point on a line following the permitted location of
15 existing pound net sets; except
 - 16 (A) in Chowan River as referenced in 15A NCAC 03J .0203; and
 - 17 (B) for renewal of pound net sets permitted prior to January 1, 2003;
- 18 (4) ~~The the~~ proposed shrimp or blue crab pound net set will be a minimum of 300 yards, as measured
19 in a perpendicular direction, from any point on a line following the permitted location of existing
20 pound net sets;
- 21 (5) ~~The the~~ proposed pound net set is not located in Core Sound in areas designated in 15A NCAC 03R
22 .0113 except that only those Pound Net Set ~~Permits~~ permits valid within the specified area as of
23 March 1, 1994, may be renewed or transferred subject to the requirements of this Rule; and
- 24 (6) ~~Issuance~~ issuance of the proposed Pound Net Set Permit is in compliance with management
25 measures adopted in fishery management plans.

26
27 *History Note:* Authority G.S. 113-134; 113-169.1; 113-181; 113-182; 113-182.1; 143B-289.52;
28 *Eff. April 1, 2009;*
29 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03J .0503 is readopted with changes as published in 36:07 NCR 469 as follows:

2

3 **15A NCAC 03J .0503 POUND NET SET PERMIT RENEWAL**

4 An application for renewal of an existing Pound Net Set Permit shall be filed not less than 30 days prior to the date of
5 expiration of the existing ~~permit,~~ permit and shall not be processed unless filed by the permittee. The Fisheries Director
6 shall review the renewal application under the criteria for issuance of a new Pound Net Set ~~Permit,~~ Permit, as set forth
7 in the rules of this Section. The Fisheries Director may hold public meetings and may conduct such investigations
8 necessary to determine if the permit should be renewed.

9

10 *History Note:* Authority G.S. 113-134; 113-169.1; 113-181; 113-182; 143B-289.52;

11 *Eff. April 1, 2009;*

12 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03J .0504 is readopted with changes as published in 36:07 NCR 469 as follows:

2

3 **15A NCAC 03J .0504 POUND NET SET PERMIT TRANSFER**

4 (a) ~~It is shall be~~ unlawful to transfer a Pound Net Set Permit without a completed application for transfer being
5 submitted to the Division of Marine Fisheries not less than 45 days before the date of the transfer. The application
6 shall be made by the proposed new permittee in writing and shall be accompanied by a copy of the current permittee's
7 permit and an application for a Pound Net Set Permit in the new permittee's name. The Fisheries Director may hold a
8 public meeting and ~~conduct such investigations necessary~~ verify the location of the pound net set and that it is in
9 compliance with all laws and rules to determine if the permit should be transferred. The transferred permit expires on
10 the same date as the initial permit.

11 (b) Upon death of the permittee, the permit may be transferred to the Administrator/Executor of the estate of the
12 permittee if transferred within six months of the Administrator/Executor's qualification in accordance with Chapter
13 28A of the North Carolina General Statutes. The Administrator/Executor shall provide a copy of the deceased
14 permittee's death certificate, a copy of letters of administration/letters ~~testamentary~~ testamentary, and a list of eligible
15 immediate family members as defined in G.S. 113-168 to the Morehead City Office of the Division. Once transferred
16 to the Administrator/Executor, the Administrator/Executor may transfer the ~~permit(s)~~ permit or permits to eligible
17 immediate family members of the deceased permittee.

18 (c) No transfer is effective until approved and processed by the ~~Division~~ Division in accordance with 15A NCAC
19 03O .0501.

20

21 *History Note: Authority G.S. 113-134; 113-169.1; 113-181; 113-182; 143B-289.52;*

22 *Eff. April 1, 2009;*

23 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03J .0505 is readopted with changes as published in 36:07 NCR 469-470 as follows:

2

3 **15A NCAC 03J .0505 POUND NET SET PERMIT CONDITIONS**

4 (a) It ~~is shall be~~ unlawful for a ~~permittee~~ permittee to:

5 (1) ~~To~~ fail to notify the Division of Marine Fisheries Marine Patrol Communications Center by phone
6 at 800-682-2632 or 252-726-7021 within 72 hours ~~by phone~~ of:

7 (A) ~~Of~~ an operational pound net set. Notification shall include the name of permittee, type of
8 net, Pound Net Set Permit number, county where located, a specific location site, and how
9 many pounds are in the set; and

10 (B) ~~Of~~ a change to the type of net being set at the permitted site.

11 (2) ~~To~~ make false notifications.

12 (3) ~~To~~ fail to render the pound net set inoperable during any closed season for the type of fishery for
13 which the pound net is permitted.

14 Failure to comply with this Paragraph ~~is shall be~~ grounds for the Fisheries Director to revoke any Pound Net Set
15 Permits held by the permittee and for denial of any future applications for Pound Net Set Permits.

16 (b) Pound net sets ~~are shall be~~ subject to inspection at all times.

17 (c) Daily reporting may be a condition of the permit for a pound net set for fisheries under a quota.

18 (d) It ~~is shall be~~ unlawful to fail to remove all pound net stakes and associated gear within 30 days after expiration of
19 the permit or notice by the Fisheries Director that an existing Pound Net Set Permit has been revoked or denied.

20

21 *History Note: Authority G.S. 113-134; 113-169.1; 113-181; 113-182; 143B-289.52;*

22 *Eff. April 1, 2009;*

23 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03K .0101 is readopted with changes as published in 36:07 NCR 470 as follows:

2
3 **SUBCHAPTER 03K - OYSTERS, CLAMS, ~~SCALLOPS~~ SCALLOPS, AND MUSSELS**

4
5 **SECTION .0100 – SHELLFISH, GENERAL**

6
7 **15A NCAC 03K .0101 PROHIBITED ACTIVITIES IN POLLUTED SHELLFISH**
8 **AREAS/ACTIVITIESAREAS**

9 (a) It ~~is shall be~~ unlawful to possess, sell, or take oysters, ~~clams-clams,~~ or mussels from areas ~~which-that~~ have been
10 designated as ~~prohibited (polluted)-polluted~~ by proclamation by the Fisheries Director except as provided in ~~15A~~
11 ~~NCAC 03K-Rules .0103, .0104, .0107, and .0401-.0401~~ of this Subchapter. The Fisheries Director shall issue **such**
12 **shellfish polluted area** proclamations ~~upon notice by the Division of Environmental Health that duly adopted~~ **if** criteria
13 for approved shellfish harvest areas in accordance with 15A NCAC 18A .0900 have not been met. The Fisheries
14 Director may reopen any such closed area ~~upon notification from the Division of Environmental Health that duly~~
15 ~~adopted by proclamation if~~ criteria for approved shellfish harvest areas in accordance with 15A NCAC 18A .0900
16 have been met. Copies of these proclamations and maps of these areas are available upon request at the Division of
17 Marine Fisheries, 3441 Arendell ~~St., Street,~~ P.O. Box 769, Morehead City, NC 28557; ~~800-682-2632 or 252-(252)~~
18 726-7021.

19 (b) The Fisheries Director may, by proclamation, close areas to the taking of oysters, clams, ~~scallops-scallops,~~ and
20 mussels ~~in order~~ to protect the shellfish populations for management purposes or for **protection of** public health
21 **purposes related to the public health programs that fall under the authority of the Marine Fisheries Commission** not
22 specified in Paragraph (a) of this Rule.

23 (c) It ~~is shall be~~ unlawful to possess or sell oysters, clams, or mussels taken from polluted waters outside North
24 ~~Carolina-Carolina,~~ except as provided in 15A NCAC 03I .0104.

25
26 *History Note: Authority G.S. 113-134; 113-168.5; 113-169.2; 113-182; ~~113-221~~; 113-221.1; 143B-289.52;*
27 *Eff. January 1, 1991;*
28 *Amended Eff. July 1, 1993;*
29 *Temporary Amendment Eff. July 1, 1999;*
30 *Amended Eff. August 1, 2000;*
31 *Temporary Amendment Eff. October 1, 2001;*
32 *Amended Eff. October 1, 2008; April 1, 2003;*
33 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0102 is readopted as published in 36:07 NCR 470 as follows:

2

3 **15A NCAC 03K .0102 ~~RAKES PROHIBITED RAKES~~**

4 It ~~is shall be~~ unlawful to use a rake more than 12 inches wide or weighing more than six pounds to take:

5 (1) oysters or scallops; or

6 (2) clams in any live oyster bed, or in any established bed of submerged aquatic vegetation as ~~described~~
7 defined in 15A NCAC 03I .0101, .0101 or in any established bed of salt water cordgrass (Spartina
8 alterniflora)-alterniflora) that may exist together or separately.

9

10 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

11 *Eff. January 1, 1991;*

12 *Amended Eff. October 1, 2008; February 1, 2008;*

13 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0103 is readopted as published in 36:07 NCR 470-471 as follows:

2
3 **15A NCAC 03K .0103 SHELLFISH MANAGEMENT AREAS**

4 ~~(a) The Fisheries Director may, by proclamation, designate Shellfish Management Areas which meet either of the~~
5 ~~following criteria. The area has:~~

- 6 (1) conditions of bottom type, salinity, currents, cover or cultch necessary for shellfish growth;
- 7 (2) shellfish populations or shellfish enhancement projects that may:
- 8 (A) produce commercial quantities of shellfish at 10 bushels or more per acre;
- 9 (B) produce shellfish suitable for transplanting as seed or for relaying from prohibited
10 (polluted) areas; or
- 11 (C) serve as sanctuaries to increase spawning and disease resistance or to prevent predation.

12 (a) For the purpose of this Rule, "Shellfish Management Area" shall mean an area that has environmental conditions
13 suitable for shellfish growth and survival that is designated to establish a localized regulatory strategy to improve the
14 propagation of shellfish and has at least one of the following:

- 15 (1) planted cultch;
- 16 (2) existing shell; or
- 17 (3) existing live shellfish.

18 (b) The Fisheries Director may, by proclamation, designate and modify Shellfish Management Areas based on
19 biological impacts or variable spatial distribution, including shifted material.

20 ~~(b)(c) It is shall be unlawful to use a trawl net, long haul seine, or swipe net in any designated Shellfish or Seed~~
21 ~~Management area. Area. These areas shall be marked with signs or buoys. Unmarked and undesignated tributaries shall~~
22 ~~be the same designation as the designated waters to which they connect or into which they flow. No unauthorized~~
23 ~~removal or relocation of any such marker shall have the effect of changing the designation of any such body of water~~
24 ~~or portion thereof, nor shall any such unauthorized removal or relocation or the absence of any marker affect the~~
25 ~~applicability of any rule pertaining to any such body of water or portion thereof.~~

26 ~~(e)(d) It is shall be unlawful to take shellfish from any Shellfish Management Area which that has been closed and~~
27 ~~posted, in accordance with Paragraph (b) of this Rule, except that the Fisheries Director may, by proclamation, open~~
28 ~~specific areas to allow the taking of shellfish and may designate time, place, character, or dimensions of any method~~
29 ~~or equipment that may be employed. impose any of the following requirements based on biological impacts or user~~
30 ~~conflicts:~~

- 31 (1) specify time;
- 32 (2) specify area;
- 33 (3) specify means and methods except as set forth in Paragraph (c) of this Rule;
- 34 (4) specify season;
- 35 (5) specify size;
- 36 (6) specify quantity; and
- 37 (7) specify marking requirements.

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*History Note: Authority G.S. 113-134; 113-182; 113-204; ~~113-221~~; 113.221.1; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. March 1, 1994;
Temporary Amendment Eff. October 1, 2001;
Amended Eff. October 1, 2008; February 1, 2008; April 1, 2003;
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0104 is readopted as published in 36:07 NCR 471 as follows:

2
3 **15A NCAC 03K .0104 PERMITS FOR PLANTING—RELAYING SHELLFISH FROM**
4 **PROHIBITED/POLLUTED/POLLUTED AREAS**

5 (a) ~~It is shall be~~ unlawful to take ~~oysters or clams shellfish~~ from ~~prohibited (polluted) polluted~~ public waters or
6 franchises for planting on shellfish leases and franchises except as authorized by G.S. 113-203. ~~Lease~~ Shellfish lease
7 and franchise holders shall first obtain a relay permit from the Fisheries Director setting forth the time, area, and
8 method by which such shellfish may be taken. The procedures and requirements for obtaining permits are found in
9 15A NCAC 03O .0500.

10 (b) The application for a relay permit shall be received by the Division of Marine Fisheries at least 15 days prior to
11 the start of relaying activities.

12 (c) All relaying activities, including removal, transport, and planting, shall be monitored and observed by the Division.

13 ~~(b)(d)~~ The season for relaying clams shall be between April 1 and May 15 and the season for relaying oysters shellfish
14 shall be for may occur within a specified six week period between the date of the statewide closure of oyster season
15 and June 30, as determined by the Fisheries Director based on the following factors:

- 16 (1) the status of ~~oyster shellfish~~ resources available for harvest from public ~~bottom and bottom;~~
17 (2) surface water temperatures that are below 50° F (10° C), when shellfish relay shall not occur;
18 (3) market factors affecting sale of ~~oysters shellfish~~ from public ~~bottom which will assist in determining~~
19 the statewide closure date ~~bottom;~~ and
20 (4) ~~manpower available~~ availability of Division of Marine Fisheries staff to monitor and observe the
21 shellfish relaying activity.

22 ~~(e) For areas designated by the Fisheries Director as sites where shellfish would otherwise be destroyed in~~
23 maintenance dredging operations, the season as set out in Paragraph (b) of this Rule shall not apply.

24 ~~(d)(c)~~ The Fisheries Director, acting upon recommendations of the Division of Environmental Health, shall close and
25 reopen by proclamation any ~~private shellfish beds lease or franchise~~ for which the owner has obtained a permit to
26 relay ~~oysters and clams shellfish~~ from ~~prohibited (polluted) polluted~~ public waters, waters or franchises. The leases
27 and franchises shall remain closed until the Fisheries Director issues a proclamation to reopen the leases and franchises
28 to harvest. The reopening of the leases and franchises shall not occur any sooner than 21 days after the end of the relay
29 season described in Paragraph (d) of this Rule.

30
31 *History Note: Authority G.S. 113-134; 113-182; 113-203; ~~113-221~~; 113-221.1; 143B-289.52;*

32 *Eff. January 1, 1991;*

33 *Amended Eff. March 1, 1996; September 1, 1991;*

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

35 *Amended Eff. April 1, 2003;*

36 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0105 is readopted as published in 36:07 NCR 471 as follows:

2

3 **15A NCAC 03K .0105 RECREATIONAL HARVEST OF SHELLFISH**

4 (a) It ~~is shall be~~ unlawful to take oysters or clams from public ~~bottoms-bottom~~ on Sundays, and scallops from public
5 ~~bottoms-bottom~~ on Saturdays and Sundays except:

6 (1) during open ~~seasons, seasons;~~ and

7 (2) for recreational purposes.

8 (b) It ~~is shall be~~ unlawful to possess, for recreational purposes, more than:

9 (1) 10 conchs or whelks per person per day, not to exceed 20 conchs or whelks per vessel per ~~day,~~
10 ~~and day;~~

11 (2) 100 mussels per person per day, not to exceed 200 mussels per vessel per ~~day, day;~~ and

12 (3) 100 clams per person per day, not to exceed 200 clams per vessel per day.

13

14 *History Note: Authority G.S. 113-134; 113-169.2; 113-182; 143B-289.52;*

15 *Eff. January 1, 1991;*

16 *Amended Eff. March 1, 1994; February 1, 1992; September 1, 1991;*

17 *Temporary Amendment Eff. October 9, 1995 for a period of 180 days or until the permanent rule*
18 *becomes effective, whichever is sooner;*

19 *Amended Eff. May 1, 1997; March 1, 1996;*

20 *Temporary Amendment Eff. July 1, 1999;*

21 *Amended Eff. October 1, 2008; August 1, 2000;*

22 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03K .0106 is readopted as published in 36:07 NCR 471 as follows:

2

3 **15A NCAC 03K .0106 TAKING OR UNLOADING OYSTERS AND CLAMS ON SUNDAY OR AT NIGHT**

4 (a) It ~~is shall be~~ unlawful to take oysters or clams between the hours of sunset and sunrise on any day.

5 (b) It ~~is shall be~~ unlawful to unload oysters or clams from any vessel or remove any vessel containing oysters or clams
6 from the water on ~~Sunday-Sundays~~ or between sunset and sunrise on any day except that in New Hanover, ~~Pender~~
7 Pender, and Brunswick ~~Counties, counties~~, oysters and clams may be unloaded until two hours after sunset.

8 (c) Oysters and clams taken on ~~Sunday-Sundays~~ from public bottom under the provisions of ~~15A NCAC 03K-Rule~~
9 .0105 of this Section or from shellfish leases and franchises pursuant to G.S. 113-208 ~~are shall be~~ exempt from
10 Paragraph (b) of this Rule.

11

12 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

13 *Eff. January 1, 1991;*

14 *Temporary Amendment Eff. July 1, 1999;*

15 *Amended Eff. October 1, 2008; August 1, 2000;*

16 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03K .0107 is readopted as published in 36:07 NCR 471-472 as follows:

2
3 **15A NCAC 03K .0107 DEPURATION OF SHELLFISH ~~CLAMS AND OYSTERS~~**

4 (a) It ~~is~~ shall be unlawful to take clams or oysters from ~~the polluted public or private prohibited (polluted) waters or~~
5 franchises of the state State for the purpose of depuration except when the harvest will utilize ~~shellfish clams or oysters~~
6 that would otherwise be destroyed in maintenance dredging operations. All harvest and transport activities within the
7 State of North Carolina related to depuration shall be under the supervision of the Division of Marine Fisheries ~~or the~~
8 ~~Division of Environmental Health Fisheries. For the purpose of this Rule, the term depuration does not include~~
9 ~~relaying of clams or oysters from shellfish leases or franchises as authorized by 15A NCAC 03K .0104.~~

10 (b) The Fisheries Director, may, by proclamation, impose any ~~or all~~ of the following restrictions on the harvest of
11 clams or oysters for depuration:

- 12 (1) ~~Specify specify~~ species;
- 13 (2) ~~Specify areas specify areas~~, except harvest ~~will~~ shall not be allowed from designated buffer zones
14 adjacent to sewage outfall facilities;
- 15 (3) ~~Specify specify~~ harvest days;
- 16 (4) ~~Specify time period; specify time;~~
- 17 (5) ~~Specify specify~~ quantity ~~or size~~;
- 18 (6) specify quantity;
- 19 (6)(7) ~~Specify specify~~ harvest methods; and
- 20 (7)(8) ~~Specify specify~~ record keeping requirements.

21 (c) Depuration permits:

- 22 (1) ~~It is~~ it shall be unlawful for individuals to harvest clams or oysters from ~~prohibited (polluted)~~
23 polluted waters for the purpose of depuration unless they have obtained a Depuration Permit or are
24 listed as designees on a Depuration Permit from the Division of Marine Fisheries ~~and Division of~~
25 ~~Environmental Health~~ setting forth the method of harvest to be employed. Permits shall be issued
26 to licensed North Carolina ~~Clam or Oyster Dealers~~ clam or oyster dealers only. Permittees and
27 designees harvesting under Depuration Permits ~~must~~ shall have a current Shellfish License or
28 Shellfish Endorsement on a Standard or Retired Standard Commercial Fishing License. The
29 procedures and requirements for obtaining permits are found in 15A NCAC 03O .0500.
- 30 (2) ~~In~~ in addition to information required in 15A NCAC 03O .0501, the permit application shall provide
31 the name, address, ~~location~~ location, and telephone number of the depuration operation where the
32 shellfish will be depurated.
- 33 (3) ~~Clam or Oyster Dealers~~ clam or oyster dealers desiring to obtain ~~prohibited (polluted)~~ clams or
34 oysters from polluted waters for the purpose of depuration shall apply for a depuration permit at
35 least 15 days prior to initiation of operation.

36 (d) Transport of clams or oysters for depuration:

1 (1) ~~Clams-clams~~ or oysters harvested from ~~prohibited (polluted)~~ polluted waters for depuration in a
2 depuration operation located within the State of North Carolina shall be transported under the
3 supervision of the ~~Division of Marine Fisheries or the Division of Environmental Health~~ Division.

4 (2) ~~Clams-clams~~ or oysters harvested from ~~prohibited (polluted)~~ polluted waters for depuration in a
5 depuration operation outside the State of North Carolina shall not be transported within the State of
6 North Carolina except under the supervision of the ~~Division of Marine Fisheries or the Division of~~
7 Environmental Health Division.

8 (e) It ~~is~~ shall be unlawful to ship clams or oysters harvested for depuration to depuration facilities located in a state
9 other than North Carolina unless the facility is in compliance with the applicable rules and laws of the shellfish control
10 agency of that state.

11 (f) ~~The procedures and requirements for obtaining permits are found in 15A NCAC 03O .0500.~~

12
13 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-221.1; 143B-289.52;*
14 *Eff. January 1, 1991;*
15 *Temporary Amendment Eff. October 1, 2001;*
16 *Amended Eff. October 1, 2008; April 1, 2003;*
17 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0108 is readopted as published in 36:07 NCR 472 as follows:

2

3 **15A NCAC 03K .0108 ~~DREDGES/MECHANICAL~~ DREDGES AND MECHANICAL METHODS**
4 **PROHIBITED**

5 (a) It shall be unlawful to use mechanical methods, except ~~mechanical methods for oystering and clamming~~
6 mechanical methods for clamming and mechanical methods for oystering as defined in 15A NCAC 03I .0101, to take
7 shellfish.

8 (b) It ~~is shall be~~ unlawful to use mechanical methods for oystering or clamming to take shellfish not subject to the
9 restrictions in ~~15A NCAC 03K Rules .0201, .0204, .0302, 0304, .0304, .0404, .0501, and .0503~~ .0503 of this
10 Subchapter:

11 (1) within any established bed of submerged aquatic vegetation as defined in 15A NCAC 03I .0101 or
12 salt water cordgrass (~~Spartina alterniflora~~;~~alterniflora~~) that may exist together or separately;

13 (2) in areas designated in 15A NCAC 03R .0108, except on shellfish leases and franchises with a Permit
14 to Use Mechanical Methods for ~~Oysters and Clams~~ Shellfish on Shellfish Leases and Franchises;

15 (3) in areas designated in ~~15A NCAC 03K Rule .0204~~ of this Subchapter and 15A NCAC 03R .0103;
16 and

17 (4) except following restrictions for the use of mechanical methods specified pursuant to 15A NCAC
18 03J .0303 and ~~03K Rules .0201, .0302, .0404, .0501, and .0503~~ .0503 of this Subchapter.

19

20 *History Note: Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;*

21 *Eff. October 1, 2008;*

22 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0109 is readopted as published in 36:07 NCR 472-473 as follows:

2
3 **15A NCAC 03K .0109 SHELLFISH HARVESTER-HARVEST AND DEALER-TAGS**

4 ~~It is~~ Consistent with the requirements of this Rule, it shall be unlawful to possess or sell oysters, clams, or mussels
5 taken in a commercial fishing operation without a harvest tag affixed to each container of oysters, ~~clams~~ ~~clams~~, or
6 mussels. Tags shall be affixed by the harvester ~~or dealer~~ and remain in place while being transported to a certified
7 shellfish dealer. Harvest tags shall remain attached to the container until the certified shellfish dealer breaks open the
8 container for washing, grading, packing, other processing, or the container is shipped. Once the initial container is
9 broken open or is emptied the harvest tag shall be kept on file, in chronological order, by the certified shellfish dealer
10 for 90 days. It shall be unlawful for the tag to fail to ~~and shall~~ meet the following criteria:

- 11 (1) ~~Tags~~ harvest tags shall be identified as harvest tags. They shall be durable for at least 90 days, ~~water~~
12 ~~resistant, waterproof,~~ and a minimum of two and five-eighths inches by five and one-fourth inches
13 in size.
- 14 (2) ~~Tags~~ harvest tags shall be securely fastened to ~~the outside of~~ each container in which shellstock is
15 transported. A ~~harvester or dealer~~ harvest tag shall ~~be remain~~ securely fastened to the outside of
16 each container at a certified shellfish dealer until replaced by a dealer tag once the container is
17 broken open for processing or is shipped. Requirements for dealer tags are described in 15A NCAC
18 18A .0425, location except, bulk shipments of shellfish in one container and from the same source
19 may have one tag with all required information attached. Harvesters who are also certified shellfish
20 dealers may use only their dealer tag if it contains the required harvest and dealer information. The
21 required information shall be included on all lots of shellfish subdivided or combined into market
22 grades or market quantities by a harvester or a certified shellfish dealer.
- 23 (3) ~~Tags shall be attached to all shellfish stored at a dealer location.~~ bulk harvest tags may be used when
24 shellfish are harvested from one growing area on a single day by an individual harvester. Multiple
25 containers may be utilized on a wrapped pallet, in a single boat, vehicle, conveyance, or other
26 container, and tagged with a single harvest tag containing the information required in this Rule. The
27 bulk tag shall also include a statement that "All shellstock containers in this lot have the same harvest
28 date and area of harvest.", and include the number of individual containers in the unit or an estimate
29 of the total weight, volume, or count.
- 30 (4) ~~Tags~~ tags shall contain legible information arranged in the specific order as follows:
- 31 (a) ~~The the~~ harvester's name, ~~address~~ ~~address~~, and ~~shellfish license or standard or retired~~
32 ~~standard commercial fishing license~~ Shellfish License or Standard or Retired Standard
33 Commercial Fishing License with shellfish endorsement ~~number~~ ~~number~~;
- 34 (b) ~~The the~~ date of ~~harvest~~ ~~harvest~~;
- 35 (c) ~~The the~~ most precise ~~description~~ ~~identification~~ of the harvest location as is practicable (e.g.,
36 Long Bay, Rose Bay) that can be easily located by maps and charts. Bay), including at a
37 minimum the State's two initials "N.C." and the growing area designation;

- 1 (d) the shellfish lease or franchise number, if applicable;
- 2 ~~(d)~~(e) Type ~~type~~ and quantity of ~~shellfish~~ shellfish;
- 3 ~~(e)~~(f) ~~The~~ the following statement in bold, capitalized ~~type;font:~~ "THIS TAG IS REQUIRED TO
4 BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON
5 ~~FILE FILE, IN CHRONOLOGICAL ORDER, FOR 90 DAYS~~"DAYS."; and
- 6 ~~(f)~~(g) the time of the start of harvest. The time of the start of harvest shall be the time when the
7 first shellfish is initially removed from the water.

8

9 *History Note:* *Authority G.S. 113-134; 113-168.5; 113-169.2; 113-182; ~~113-221~~; 143B-289.52;*
10 *Eff. October 1, 2008;*
11 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0111 is repealed through readoption as published in 36:07 NCR 473 as follows:

2

3 **15A NCAC 03K .0111 PERMITS TO USE MECHANICAL METHODS FOR SHELLFISH ON**
4 **SHELLFISH LEASES OR FRANCHISES**

5

6 *History Note: Authority G.S. 113-134; 113-169.1; 113-182; 143B-289.52;*

7 *Eff. May 1, 2015;*

8 *Repealed Eff. (Pending legislative review of 15A NCAC 03O .0211).*

1 15A NCAC 03K .0201 is readopted with changes as published in 36:07 NCR 473-474 as follows:

2
3 **SECTION .0200 – OYSTERS**

4
5 **15A NCAC 03K .0201 OYSTER HARVEST MANAGEMENT**

6 (a) It ~~is~~ shall be unlawful to take or possess oysters from public bottom except from October 15 through March 31.

7 (b) The Fisheries Director may, by proclamation, impose any of the following restrictions on the taking of oysters:

- 8 (1) specify time;
- 9 (2) specify area;
- 10 (3) specify means and methods;
- 11 (4) specify season within the period set forth in Paragraph (a) of this Rule;
- 12 (5) specify size, but the minimum size limit specified shall not be less than three inches, except the
13 minimum size limit specified shall not be less than two and one half inches unless a smaller
14 minimum size limit is necessary to prevent loss of oysters due to predators, pests, or infectious
15 oyster ~~diseases;~~ diseases. In no case shall the minimum size limit be less than two and one-half
16 inches; and
- 17 (6) specify quantity, but the quantity shall not exceed possession of more than 20 standard U.S. bushels
18 in a commercial fishing operation per day.
- 19

20 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-221.1; 143B-289.52;*
21 *Eff. January 1, 1991;*
22 *Amended Eff. May 1, 2017; October 1, 2008; March 1, 1996; September 1, 1991;*
23 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03K .0202 is readopted as published in 36:07 NCR 474 as follows:

2

3 **15A NCAC 03K .0202 CULLING REQUIREMENTS FOR OYSTERS**

4 (a) It ~~is~~ shall be unlawful to possess oysters ~~which that~~ have accumulated dead shell, accumulated oyster cultch
5 material, a shell length less than that specified by proclamation issued under the authority of Rule .0201 of this Section,
6 or any combination thereof that exceeds a five-percent tolerance limit by volume. Oysters shall be culled where
7 harvested and all oysters of less than legal size, accumulated dead shell, and cultch material shall be immediately
8 returned to the bottom from which it was taken. In determining whether the tolerance limit ~~is~~ has been exceeded, ~~the~~
9 ~~Fisheries Director or his agents may~~ Marine Fisheries Inspectors shall be authorized and empowered to grade all, or
10 any portion, or any combination of portions of the entire quantity being ~~graded and,~~ graded, and in cases of violations,
11 may seize and return to public bottom or otherwise dispose of the oysters as authorized by ~~law~~ law the entire quantity
12 being graded or any portion thereof.

13 (b) ~~All oysters shall be culled where harvested and all oysters of less than legal size, accumulated dead shell, and~~
14 ~~cultch material shall be immediately returned to the bottom from which it was taken.~~

15 (e)(b) This Rule shall not apply to oysters imported from out-of-state solely for shucking by shucking and packing
16 plants permitted by the Division of Marine Fisheries.

17

18 *History Note: Authority G.S. 113-134; 113-136; 113-137; 113-182; 143B-289.52;*

19 *Eff. January 1, 1991;*

20 *Amended Eff. March 1, 1996; September 1, 1991;*

21 *Temporary Amendment Eff. July 1, 1999;*

22 *Amended Eff. May 1, 2017; August 1, 2000;*

23 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0204 is readopted with changes as published in 36:07 NCR 474 as follows:

2

3 **15A NCAC 03K .0204 ~~DREDGES / MECHANICAL~~ MECHANICAL METHODS FOR OYSTERING**
4 **PROHIBITED**

5 It ~~is shall be~~ unlawful to use any ~~dredge or other mechanical method~~ mechanical methods for oystering as defined in
6 15A NCAC 03I .0101 to take oysters:

7 (1) in the Mechanical Methods Prohibited areas designated in 15A NCAC 03R .0108, except on
8 shellfish leases and franchises by ~~permit~~ a Permit to Use Mechanical Methods for Shellfish on
9 Shellfish Leases or Franchises; and

10 (2) on any posted ~~bottoms~~ bottom upon which oysters or shells have been planted by the ~~state~~ State,
11 unless such ~~bottoms have~~ bottom has been opened to the public and ~~dredging permitted~~ mechanical
12 methods for oystering are allowed.

13

14 *History Note: Authority G.S. 113-134; 113-182; 113-204; 143B-289.52;*

15 *Eff. January 1, 1991;*

16 *Amended Eff. August 1, 2004; May 1, 1997;*

17 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0205 is readopted as published in 36:07 NCR 474 as follows:

2
3 **15A NCAC 03K .0205 MARKETING OYSTERS TAKEN FROM A PRIVATE SHELLFISH BOTTOMS**
4 **LEASE OR FRANCHISE**

5 (a) It ~~is shall be~~ unlawful to take, possess, buy, or sell oysters from a shellfish ~~leases lease or franchises franchise~~
6 during the open season unless such oysters have been culled in accordance with Rule ~~15A NCAC 03K .0202~~.0202 of
7 this Section.

8 (b) ~~It is unlawful to sell, purchase or possess oysters during the regular closed season without the lease or franchise~~
9 ~~holder delivering to the purchaser or other recipient a certification, on a form provided by the Division, that the oysters~~
10 ~~were taken from a valid shellfish lease or franchise. Certification forms shall be furnished by the Division to lease and~~
11 ~~franchise holders upon request.~~

12 (b) All commercial oyster harvesting operations shall operate in accordance with any proclamations issued under the
13 authority of Rule .0110 of this Subchapter.

14 (c) It ~~is shall be~~ unlawful for a shellfish lease or franchise ~~holders holder or their the holder's~~ designees to take or
15 possess oysters from public bottom while possessing aboard a vessel oysters taken from a ~~shellfish leases lease or~~
16 ~~franchises franchise.~~

17 (d) It shall be unlawful for a shellfish lease or franchise holder or the holder's designees to fail to obtain an Aquaculture
18 Operation Permit if the lease or franchise has material extending more than 18 inches above the leased bottom or uses
19 equipment including cages, bags, or predator nets to cultivate shellfish.

20
21 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-289.52;*
22 *Eff. January 1, 1991;*
23 *Amended Eff. September 1, 1991;*
24 *Temporary Amendment Eff October 1, 2001;*
25 *Amended Eff. April 1, 2003;*
26 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0207 is readopted as published in 36:07 NCR 474 as follows:

2

3 **15A NCAC 03K .0207 OYSTER SIZE AND HARVEST LIMIT ~~EXEMPTION~~EXEMPTIONS**

4 Possession and sale of oysters by a hatchery or ~~oyster~~ aquaculture operation and purchase and possession of oysters
5 from a hatchery or ~~oyster~~ aquaculture operation shall be exempt from bag and size limit restrictions ~~set under authority~~
6 ~~of 15A NCAC 03K .0201 and 03K .0202.~~ as set forth in Rules .0201 and .0202 of this Section. It is shall be unlawful
7 to possess, sell, purchase, or transport such oysters unless they are in compliance with all conditions of the Aquaculture
8 Operations Permit-Operation Permit as set forth in 15A NCAC 03O .0503.

9

10 *History Note: Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;*

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

12 *Eff. April 1, 2003;*

13 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0208 is readopted with changes as published in 36:07 NCR 474-475 as follows:

2

3 **15A NCAC 03K .0208 SEED OYSTER MANAGEMENT AREAS**

4 (a) For the purpose of this Rule and 15A NCAC 03R .0116, "Seed Oyster Management Area" shall mean a shellfish
5 producing habitat area located in open harvest waters that has environmental conditions unsuitable for shellfish growth
6 and survival that is designated to establish a localized regulatory strategy to allow the transfer of oysters to shellfish
7 leases or franchises that have more suitable environmental conditions for further grow-out.

8 (b) The Fisheries Director may, by proclamation, modify or close Seed Oyster Management Areas designated in 15A
9 NCAC 03R .0116 for the protection of public health related to the public health programs under the authority of the
10 Marine Fisheries Commission.

11 ~~(c)~~ (c) It is shall be unlawful to take oysters from Seed Oyster Management Areas designated in 15A NCAC 03R
12 .0116 for planting on shellfish leases or franchises without first obtaining a Permit to Transplant Oysters from Seed
13 Oyster Management Areas from the Fisheries Director. The procedures and requirements for obtaining permits are set
14 forth in 15A NCAC 03O .0501.

15 ~~(d)~~ (d) It is shall be unlawful to use a trawl net, long haul seine, or swipe net in any designated Seed Oyster
16 Management Area.

17

18 *History Note: Authority G.S. 113-134; 113-182; 113-203; ~~113-221~~; 113-221.1; 143B-289.52;*

19 *Eff. October 1, 2008;*

20 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0209 is readopted as published in 36:07 NCR 475 as follows:

2
3 **15A NCAC 03K .0209 OYSTER SANCTUARIES**

4 ~~(a) It is unlawful to use a trawl net, long haul seine, or swipe net in Oyster Sanctuaries designated in 15A NCAC 03R~~
5 ~~.0117. These areas shall be marked with signs or buoys. Unmarked and undesignated tributaries shall be the same~~
6 ~~designation as the designated waters to which they connect or into which they flow. No unauthorized removal or~~
7 ~~relocation of any such marker shall have the effect of changing the designation of any such body of water or portion~~
8 ~~thereof, nor shall any such unauthorized removal or relocation or the absence of any marker affect the applicability of~~
9 ~~any rule pertaining to any such body of water or portion thereof.~~

10 (a) For the purpose of this Rule and 15A NCAC 03R .0117, "Oyster Sanctuary" shall mean a type of artificial reef and
11 shellfish producing habitat constructed for the purpose of oyster restoration that is managed to sustain populations of
12 oyster broodstock. An Oyster Sanctuary is constructed to maximize habitat complexity and designed to meet its
13 intended function for a minimum of 30 years.

14 (b) The Fisheries Director may, by proclamation, close Oyster Sanctuary areas designated in 15A NCAC 03R .0117
15 to the use of specific fishing gears based on biological impacts or user conflicts.

16 (c) The Fisheries Director may, by proclamation, designate and modify Oyster Sanctuaries based on biological
17 impacts or variable spatial distribution, including shifted material.

18 ~~(b)(d) It is shall be unlawful to use mechanical methods for oystering or clamming in, or to take oysters or clams from~~
19 ~~shellfish from, Oyster Sanctuaries designated in 15A NCAC 03R .0117, .0117 or in accordance with Paragraph (c) of~~
20 ~~this Rule.~~

21 (e) It shall be unlawful to use a trawl net, long haul seine, or swipe net in any designated Oyster Sanctuary.

22
23 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-204; 143B-289.52;*

24 *Eff. October 1, 2008;*

25 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0301 is readopted with changes as published in 36:07 NCR 475 as follows:

2
3 **SECTION .0300 - HARD CLAMS (MERCENARIA)**
4

5 **15A NCAC 03K .0301 SIZE AND HARVEST ~~LIMIT~~LIMITS OF CLAMS**

6 (a) It ~~is~~shall be unlawful to take, land, or possess aboard a vessel more than 6,250 hard clams per commercial fishing
7 operation from public bottom in internal waters. It ~~is~~shall be unlawful to take, possess, sell, or purchase any clams
8 (except Rangia or freshwater clams) less than one inch thick except in accordance with ~~15A NCAC 3K .0305(b)~~Rule
9 .0305 of this Section. Clams shall be culled where harvested and all clams of less than legal size with their shell, shall
10 be immediately returned to the bottom from which ~~it was~~they were taken. ~~Agents of the Fisheries Director are~~In
11 determining whether the size and harvest limits have been exceeded. Marine Fisheries Inspectors shall be authorized
12 and empowered to grade all, or any portion, or any combination of portions of the entire quantity ~~of clams being~~
13 ~~graded~~graded, and in cases of violations, ~~may seize and return to public bottom or other disposition~~otherwise dispose
14 of the clams as authorized by law ~~of~~ the entire quantity being graded or any portion thereof.

15 (b) Size and harvest limits established in Paragraph (a) of this Rule and the season and area limitations established in
16 ~~15A NCAC 3K .0302~~Rule .0302 of this Section may or may not apply apply for:

- 17 (1) ~~For harvest limits for temporary openings made upon the recommendation of Division of~~
18 ~~Environmental Health~~consistent with the requirements of 15A NCAC 18A .0900 and the North
19 Carolina Hard Clam Fishery Management Plan;
20 (2) ~~For maintenance dredging operations, when clams would otherwise be destroyed, upon approval by~~
21 ~~the Division of Marine Fisheries and consistent with the North Carolina Hard Clam Fishery~~
22 ~~Management Plan; or~~
23 (3) ~~For relaying of polluted clams from polluted waters to private shellfish bottoms~~bottom as permitted
24 by ~~15A NCAC 3K .0104~~Rule .0104 of this Subchapter.

25
26 *History Note: Authority G.S. 113-134; 113-136; 113-137; 113-182; 113-221; 143B-289.52;*
27 *Eff. January 1, 1991;*
28 *Amended Eff. March 1, 1994;*
29 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0302 is readopted as published in 36:07 NCR 475-476 as follows:

2

3 **15A NCAC 03K .0302 MECHANICAL HARVEST OF CLAMS FROM PUBLIC BOTTOM**

4 (a) It ~~is shall be~~ unlawful to take, buy, sell, or possess any clams taken by ~~mechanical methods~~ mechanical methods
5 for clamming as defined in 15A NCAC 03I ~~.0101, "mechanical methods for clamming,"~~ .0101 from public bottom
6 unless the season is open.

7 (b) The Fisheries Director may, by proclamation, open and close the season for the taking of clams by mechanical
8 methods from public bottom at any time in the Atlantic Ocean and only from December 1 through March 31 in Internal
9 ~~Coastal~~ Waters.

10 (c) The Fisheries Director may, by proclamation, open to the taking of clams by mechanical methods from public
11 bottom during open seasons only areas that were opened at any time from January 1979 through September 1988 in:

- 12 (1) Newport, North, White Oak, and New rivers;
- 13 (2) Core and Bogue sounds;
- 14 (3) the Intracoastal Waterway north of "BC" Marker at Topsail Beach; and
- 15 (4) the Atlantic Ocean.

16 Other areas opened for purposes as set out in ~~15A NCAC 03K Rule .0301(b)~~ of this Section shall open only for those
17 purposes. A list of areas as described in this Paragraph is available upon request at the Division of Marine Fisheries,
18 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557.

19 (d) The Fisheries Director may, by proclamation, impose any of the following additional restrictions for the taking of
20 clams by mechanical methods from public bottom during open seasons:

- 21 (1) specify time;
- 22 (2) specify means and methods;
- 23 (3) specify size; and
- 24 (4) specify quantity.

25

26 *History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*

27 *Eff. January 1, 1991;*

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

29 *Amended Eff. May 1, 2017; April 1, 2003;*

30 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03K .0304 is readopted with changes as published in 36:07 NCR 476 as follows:

2

3 **15A NCAC 03K .0304 PROHIBITED TAKING OF CLAMS**

4 (a) It ~~is shall be~~ unlawful to take clams by ~~any method, other than by hand tongs, hand rakes, or by hand,~~ mechanical
5 methods for clamming as defined in 15A NCAC 03I .0101, except as provided in ~~15A NCAC 03K Rule .0302 and~~
6 ~~.0303~~ of this Section. Regardless of the areas ~~which that~~ that may be opened, it ~~is shall be~~ unlawful to take clams by hand
7 tongs in any established bed of submerged aquatic vegetation as ~~described~~ defined in 15A NCAC 03I .0101 or salt
8 water cordgrass (~~Spartina alterniflora~~) alterniflora that may exist together or separately.

9 (b) It ~~is shall be~~ unlawful to possess clam trawls or cages aboard a vessel at any time, or have ~~kick/deflector~~ kick or
10 deflector plates ~~normally~~ otherwise used in the mechanical harvest of clams affixed to a vessel at any time, except
11 during the time period specified for a mechanical clam harvest season in ~~internal waters~~ Internal Waters in accordance
12 with ~~15A NCAC 03K .0302(a)~~ Rule .0302(a) of this Section. A period of 14 days before and after the season as
13 specified by proclamation ~~will~~ shall be allowed for the installation and removal of ~~kick/deflector~~ kick or deflector
14 plates and clam trawls or cages. Vessels with permits for activities provided for in ~~15A NCAC 03K Rules .0104,~~
15 ~~.0107, .0303(a), and .0401~~ of this Subchapter shall be exempt from this Rule during the times such those activities are
16 permitted.

17

18 *History Note: Authority G.S. 113-134; 113-182; ~~113-221~~; 143B-289.52;*

19 *Eff. January 1, 1991;*

20 *Amended Eff. October 1, 2008; February 1, 2008; May 1, 1997; July 1, 1993;*

21 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0305 is readopted as published in 36:07 NCR 476 as follows:

2

3 **15A NCAC 03K .0305 CLAM SIZE AND HARVEST LIMIT ~~EXEMPTION~~EXEMPTIONS**

4 Possession and sale of clams by a hatchery or ~~clam~~-aquaculture operation and purchase and possession of clams from
5 a hatchery or ~~clam~~-aquaculture operation shall be exempt from bag and size limit restrictions ~~in 15A NCAC 3K~~
6 ~~.0301(a)~~ as set forth in Rule .0301 of this Section. It ~~is~~ shall be unlawful to possess, sell, purchase, or transport such
7 clams unless they are in compliance with all conditions of the Aquaculture Operation ~~Permit~~ Permit as set forth in
8 15A NCAC 03O .0503.

9

10 *History Note: Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;*

11 *Eff. January 1, 1991;*

12 *Amended Eff. September 1, 1991;*

13 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0401 is readopted as published in 36:07 NCR 476 as follows:

2

3

SECTION .0400 - RANGIA CLAMS

4

**15A NCAC 03K .0401 ~~PROHIBITED~~ ~~(POLLUTED)~~ POLLUTED AREA PERMIT
6 REQUIREMENTREQUIREMENTS**

7 It ~~is shall be~~ unlawful to take Rangia clams or their shells by any method from ~~prohibited (polluted) polluted~~ waters
8 without first ~~securing obtaining~~ a Permit to Harvest Rangia Clams from ~~Prohibited (Polluted) Polluted~~ Areas from the
9 Fisheries Director. The permit application shall include a list of all designees operating under the permit. ~~Such The~~
10 permit shall designate the area, means and methods, and ~~time(s) times~~ in which Rangia clams may be taken. The
11 permit applicant shall designate the licensed fish dealer where the Rangia clams are to be landed and the method for
12 disposing of Rangia clam meats. The procedures and requirements for obtaining permits are found in 15A NCAC 03O
13 .0500.

14

15 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-289.52;*

16 *Eff. January 1, 1991;*

17 *Amended Eff. August 1, 2004;*

18 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0505 is readopted with changes as published in 36:07 NCR 476 as follows:

2

3 **15A NCAC 03K .0505 SEA SCALLOPS SIZE LIMIT AND TOLERANCE**

4 It ~~is shall be~~ unlawful to land or possess **more than 10 percent by number** sea scallops with a shell height **(length)** of
5 less than three and one-half inches. ~~A tolerance of not more than ten [10] percent by number for undersized sea scallop~~
6 ~~shell height shall be allowed.~~ In determining whether the ~~proportion of undersized sea scallops exceeds the ten~~ **10**
7 **[percent]** tolerance ~~limit, the Fisheries Director and his agents are~~ limit has been exceeded, Marine Fisheries Inspectors
8 shall be authorized and empowered to grade all, or any portion, or any combination of portions of the entire quantity
9 being graded, and in cases of violations, may ~~require seizure or other disposition~~ seize and return to public bottom or
10 otherwise dispose of the sea scallops as authorized by law. ~~law the entire quantity being graded or any portion thereof.~~

11

12 *History Note: Authority G.S. 113-134; 113-136; 113-137; 113-182; 143B-289.52;*

13 *Eff. January 1, 1991;*

14 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0507 is amended as published in 36:07 NCR 476 as follows:

2

3 **15A NCAC 03K .0507 MARKETING SCALLOPS TAKEN FROM A SHELLFISH LEASES-LEASE OR**
4 **FRANCHISES-FRANCHISE**

5 ~~(a) It shall be unlawful to sell, purchase, or possess scallops during the closed season without the lease or franchise~~
6 ~~holder delivering to the purchaser or other recipient a certification, on a form provided by the Division of Marine~~
7 ~~Fisheries, that the scallops were taken from a valid shellfish lease or franchise. Certification forms shall be furnished~~
8 ~~by the Division to lease and franchise holders upon request.~~

9 (a) All commercial scallop harvesting operations shall operate in accordance with any proclamations issued under the
10 authority of Rule .0110 of this Subchapter.

11 ~~(b) It shall be unlawful for a shellfish lease or franchise holders holder or their the holder's designees to take or possess~~
12 ~~scallops from public bottom while possessing aboard a vessel scallops taken from a shellfish leases-lease or~~
13 ~~franchises-franchise.~~

14 (c) It shall be unlawful for a shellfish lease or franchise holder or the holder's designees to fail to obtain an Aquaculture
15 Operation Permit if the lease or franchise has material extending more than 18 inches above the leased bottom or uses
16 equipment including cages, bags, or predator nets to cultivate shellfish.

17

18 *History Note: Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;*

19 *Eff. May 1, 2015;*

20 *Readopted Eff. April 1, 2019;*

21 *Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03L .0101 is readopted as published in 36:07 NCR 476-477 as follows:

2
3 **SUBCHAPTER 03L – ~~SHRIMPS, SHRIMP, CRAB, AND LOBSTER~~**

4
5 **SECTION .0100 - SHRIMP**

6
7 **15A NCAC 03L .0101 SHRIMP HARVEST RESTRICTIONS**

8 (a) It ~~is~~ shall be unlawful to take shrimp until the Fisheries Director, by proclamation, opens the season.

9 (b) The Fisheries Director may, by proclamation, impose any ~~or all~~ of the following restrictions on the taking of
10 shrimp:

- 11 (1) specify time;
12 (2) specify area;
13 (3) specify means and methods;
14 (4) specify season;
15 (5) specify size; and
16 (6) specify quantity.

17
18 *History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*
19 *Eff. January 1, 1991;*
20 *Amended Eff. May 1, 2015;*
21 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03L .0102 is readopted as published in 36:07 NCR 477 as follows:

2

3 **15A NCAC 03L .0102 WEEKEND SHRIMPING PROHIBITED**

4 It ~~is shall be~~ unlawful to take shrimp by any method from 9:00 p.m. on Friday through 5:00 p.m. on Sunday, except:

5 (1) in the Atlantic Ocean;

6 (2) with the use of fixed ~~and nets,~~ channel nets, hand seines, shrimp pots, or cast nets; or

7 (3) for a holder of a Permit for Weekend Trawling for Live Shrimp in accordance with 15A NCAC 03O
8 .0503.

9

10 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

11 *Eff. January 1, 1991;*

12 *Amended Eff. May 1, 2017; August 1, 2004; March 1, 1994;*

13 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03L .0103 is readopted as published in 36:07 NCR 477 as follows:

2
3 **15A NCAC 03L .0103 PROHIBITED NETS, MESH ~~LENGTHS~~ LENGTHS, AND AREAS**

4 (a) It ~~is shall be~~ unlawful to take shrimp with nets with mesh lengths less than the following:

- 5 (1) ~~Trawl net~~ trawl nets: one and one-half inches;
- 6 (2) ~~Fixed~~ fixed nets, channel nets, float nets, butterfly nets, and hand ~~seines~~ seines: one and one-fourth
- 7 inches; and
- 8 (3) ~~Cast net~~ cast nets: no restriction.

9 (b) It ~~is shall be~~ unlawful to take shrimp with a net constructed in such a manner as to contain an inner or outer liner
10 of any mesh length. Net material used as chafing gear shall be no less than four inches mesh length, except that chafing
11 gear with smaller mesh may be used only on the bottom one-half of the tailbag. Such chafing gear shall not be tied in
12 a manner that forms an additional tailbag.

13 (c) It ~~is shall be~~ unlawful to take shrimp with trawls that have a combined headrope of greater than 90 feet in Internal
14 ~~Coastal~~ Waters in the following areas:

- 15 (1) ~~North~~ north of the 35° 46.3000' N latitude line;
- 16 (2) Core Sound south of a line beginning at a point 34° 59.7942' N - 76° 14.6514' W on Camp Point;
17 running easterly to a point 34° 58.7853' N - 76° 09.8922' W on Core Banks; to the South Carolina
18 State Line;
- 19 (3) Pamlico River upstream of a line from a point 35° 18.5882' N - 76° 28.9625' W at Pamlico Point;
20 running northerly to a point 35° 22.3741' N - 76° 28.6905' W at Willow Point; and
- 21 (4) Neuse River southwest of a line from a point 34° 58.2000' N - 76° 40.5167' W at Winthrop Point
22 on the eastern shore of the entrance to Adams Creek; running northerly to a point 35° 01.0744' N -
23 76° 42.1550' W at Windmill Point at the entrance of Greens Creek at Oriental.

24 (d) ~~Effective January 1, 2017 it is~~ It shall be unlawful to take shrimp with trawls that have a combined headrope of
25 greater than 220 feet in Internal ~~Coastal~~ Waters in the following areas:

- 26 (1) Pamlico Sound south of the 35° 46.3000' N latitude line and north of a line beginning at a point 34°
27 59.7942' N - 76° 14.6514' W on Camp Point; running easterly to a point 34° 58.7853' N - 76°
28 09.8922' W on Core Banks;
- 29 (2) Pamlico River downstream of a line from a point 35° 18.5882' N - 76° 28.9625' W at Pamlico Point;
30 running northerly to a point 35° 22.3741' N - 76° 28.6905' W at Willow Point; and
- 31 (3) Neuse River northeast of a line from a point 34° 58.2000' N - 76° 40.5167' W at Winthrop Point on
32 the eastern shore of the entrance to Adams Creek; running northerly to a point 35° 01.0744' N - 76°
33 42.1550' W at Windmill Point at the entrance of Greens Creek at Oriental.

34 (e) It ~~is shall be~~ unlawful to use a shrimp trawl in the areas described in 15A NCAC 03R .0114.

35 (f) It ~~is shall be~~ unlawful to use channel nets except as provided in 15A NCAC 03J .0106.

36 (g) It ~~is shall be~~ unlawful to use shrimp pots except as provided in 15A NCAC 03J .0301.

1 (h) It ~~is~~ shall be unlawful to use a shrimp trawl that does not conform with the federal rule requirements for Turtle
2 Excluder Devices (TED) as specified in 50 CFR Part 222.102 Definitions, 50 CFR Part 223.205 (a) and Part 223.206
3 (d) Gear Requirements for Trawlers, and 50 CFR Part 223.207 Approved TEDs. These federal rules are incorporated
4 by reference including subsequent amendments and editions. Copies of these rules are available via the Code of
5 Federal Regulations posted on the Internet at ~~http://www.gpoaccess.gov/efr/index.html~~ [https://www.ecfr.gov/cgi-](https://www.ecfr.gov/cgi-bin/ECFR)
6 [bin/ECFR](https://www.ecfr.gov/cgi-bin/ECFR) and at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, North Carolina
7 NC 28557 at no cost.

8

9 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

10 *Eff. January 1, 1991;*

11 *Amended Eff. May 1, 2015; April 1, 2009; July 1, 2006;*

12 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03L .0105 is readopted with changes as published in 36:07 NCR 477 as follows:

2

3 **15A NCAC 03L .0105 RECREATIONAL SHRIMP LIMITS**

4 It ~~is shall be~~ unlawful to:

5 (1) ~~Possess~~possess from areas open to the harvest of shrimp more than 48 quarts, heads on or 30 quarts,
6 heads off, of shrimp per person per day or if a vessel is used, per vessel per day for recreational
7 purposes except as provided in 15A NCAC 03O .0303(e) and (f).

8 (2) ~~Take~~take or possess more than four quarts, heads on or two and one-half quarts, heads off, of shrimp
9 per person per day with a cast net from areas closed to the **commercial** taking of shrimp.

10

11 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

12 *Eff. April 1, 2009;*

13 *Amended Eff. May 1, 2015; June 1, 2013;*

14 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03L .0201 is readopted with changes as published in 36:07 NCR 477-478 as follows:

2
3 **SECTION .0200 – CRABSCAB**
4

5 **15A NCAC 03L .0201 CRAB HARVEST RESTRICTIONS**

6 (a) It shall be unlawful to possess blue crabs taken from Crab Harvest Management Areas designated in 15A NCAC
7 03R .0118(1) from January 1 through January 31, except dealers shall have seven days after the beginning of the
8 closure to sell, offer for sale, or transport blue crabs that were taken from this area prior to the closure.

9 (b) It shall be unlawful to possess blue crabs taken from Crab Harvest Management Areas designated in 15A NCAC
10 03R .0118(2) from March 1 through March 15, except dealers shall have seven days after the beginning of the closure
11 to sell, offer for sale, or transport blue crabs that were taken from this area prior to the closure.

12 ~~(a) It is unlawful to possess more than 10 percent by number in any container, male and immature female hard blue~~
13 ~~crabs less than five inches from tip of spike to tip of spike and to fail to return hard blue crabs not meeting this~~
14 ~~restriction to the waters from which taken, except the Fisheries Director may, by proclamation authority established~~
15 ~~in Paragraph (f) of this Rule, further restrict the harvest of blue crabs. All blue crabs not sorted into containers as~~
16 ~~specified in Paragraph (b) of this Rule shall be deemed hard blue crabs for the purpose of establishing the 10 percent~~
17 ~~culling tolerance.~~

18 ~~(b) It is unlawful to possess blue crabs less than five inches from tip of spike to tip of spike unless individual crabs~~
19 ~~are sorted to and placed in separate containers for each of the following categories:~~

20 ~~(1) — soft crabs;~~

21 ~~(2) — pink and red line peeler crabs;~~

22 ~~(3) — white line peeler crabs; and~~

23 ~~(4) — from March 1 through October 31, male crabs to be used as peeler crab bait.~~

24 ~~The Fisheries Director may, by proclamation authority established in Paragraph (f) of this Rule, further restrict the~~
25 ~~harvest of blue crabs.~~

26 (c) It shall be unlawful to possess more than five percent by number of the following hard blue crabs in any
27 combination in any container:

28 (1) male hard blue crabs less than five inches from tip of spike to tip of spike;

29 (2) immature female hard blue crabs;

30 (3) mature female hard blue crabs less than five inches from tip of spike to tip of spike; and

31 (4) mature female hard blue crabs with a dark (brown or black) sponge from April 1 through April 30
32 statewide. For the purpose of this Rule, a "mature female hard blue crab with a dark sponge" shall
33 mean a mature female hard crab that has extruded her eggs on the abdomen or abdominal flap and
34 the eggs have developed a coloration ranging from any shade of brown through black.

35 (d) It shall be unlawful to possess blue crabs described in Subparagraphs (c)(1) through (c)(3) of this Rule unless
36 individual crabs are sorted and placed into separate containers for each of the following categories:

37 (1) soft crabs;

- 1 (2) pink and red-line peeler crabs;
- 2 (3) white line peeler crabs; and
- 3 (4) from March 1 through October 31, male crabs to be used as peeler crab bait.

4 All blue crabs not sorted into containers as specified shall be deemed hard blue crabs for the purpose of establishing
5 the five percent tolerance described in Paragraph (c) of this Rule.

6 ~~(e)(c) It is shall be unlawful to possess more than five percent by number of white-line peelers-peeler crabs in a~~
7 ~~container of pink and red-line peeler crabs, peelers, except the Fisheries Director may, by proclamation authority~~
8 ~~established in Paragraph (f) of this Rule, further restrict the harvest of blue crabs.~~

9 ~~(d)(f) It is shall be unlawful to:~~

- 10 (1) sell white-line peelers;peeler crabs;
- 11 (2) possess white-line peelers-peeler crabs unless they are to be used in the harvester's permitted blue
- 12 crab shedding operation; ~~and or~~
- 13 (3) possess male white-line peelers-peeler crabs from June 1 through September 1.

14 ~~The Fisheries Director may, by proclamation authority established in Paragraph (f) of this Rule, further restrict the~~
15 ~~harvest of blue crabs.~~

16 ~~(e)(g) It is shall be unlawful to possess more than 50 blue crabs per person per day, not to exceed 100 blue crabs per~~
17 ~~vessel per day for recreational purposes, purposes, except the Fisheries Director may, by proclamation authority~~
18 ~~established in Paragraph (f) of this Rule, further restrict the harvest of blue crabs.~~

19 ~~(f)(h) In order to comply with management measures adopted in the N.C. Blue Crab Fishery Management Plan, the~~
20 ~~Fisheries Director may, by proclamation, close the harvest of blue crabs and take the following actions for may further~~
21 ~~restrict commercial and recreational blue crab harvest: harvest by imposing any of the following requirements on the~~
22 ~~taking of blue crabs:~~

- 23 (1) specify areas;
- 24 (2) specify seasons;
- 25 (3) specify time periods;
- 26 (4) specify means and methods;
- 27 (5) specify culling tolerance; and
- 28 (6) specify limits on harvest based on size, quantity, sex, reproductive stage, or peeler stage.

29 (i) It shall be unlawful to fail to immediately return hard blue crabs not meeting the requirements of this Rule to the
30 waters from which they were taken.

31
32 *History Note: Authority G.S. 113-134; 113-182; 113-182.1; 113-221.1; 143B-289.52;*
33 *Eff. January 1, 1991;*
34 *Amended Eff. April 1, 1997; July 1, 1993;*
35 *Temporary Amendment Eff. July 1, 1999;*
36 *Amended Eff. April 1, 2014; September 1, 2005; August 1, 2000;*
37 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03L .0202 is readopted as published in 36:07 NCR 478-479 as follows:

2

3 **15A NCAC 03L .0202 CRAB TRAWLING**

4 (a) It ~~is~~ shall be unlawful to take or possess aboard a vessel crabs taken by trawl in internal waters except in areas and
5 during such times as the Fisheries Director may specify by proclamation.

6 (b) It ~~is~~ shall be unlawful to use a trawl to take crabs that does not meet mesh length requirements, except as provided
7 in 15A NCAC 03J .0104. The minimum mesh length to take hard crabs with a trawl ~~is~~ shall be three inches, except:

8 (1) ~~The~~ the minimum mesh length ~~is~~ shall be four inches in the area of western Pamlico Sound west of
9 a line beginning at a point 35° 48.3693' N - 75° 43.7232' W on Roanoke Marshes Point; running
10 easterly to a point 35° 48.3000' N - 75° 37.1167' W near Beacon "1" at the southern end of Roanoke
11 Island; running southerly to a point 35° 30.7500' N - 75° 40.5667' W near the "S" Beacon at Long
12 Shoal; running southwesterly to a point 35° 12.6167' N - 76° 04.3833' W near the "BL" Beacon on
13 Bluff Shoal; running westerly to a point 35° 08.1000' N - 76° 17.5000' W near the "BI" Beacon at
14 Brant Island Shoal; running southwesterly to a point 35° 04 .6167' N - 76° 27.8000' W on Point of
15 Marsh; and

16 (2) ~~The~~ the Fisheries Director may, by proclamation, specify areas other than the area described in
17 Subparagraph (b)(1) of this Rule for trawl mesh length use and increase the minimum trawl mesh
18 length to no more than four inches to take hard crabs.

19 (c) It ~~is~~ shall be unlawful to use a trawl with a mesh length less than two inches or with a combined total headrope
20 length exceeding 25 feet to take soft or peeler crabs, except as provided in 15A NCAC 03J .0104.

21

22 *History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*

23 *Eff. February 1, 1991;*

24 *Amended Eff. April 1, 2014; September 1, 2005; August 1, 2004; March 1, 1994; September 1, 1991;*

25 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03L .0203 is readopted as published in 36:07 NCR 479 as follows:

2

3 **15A NCAC 03L .0203 CRAB DREDGING**

4 ~~(a) It is shall be~~ unlawful to take crabs with dredges ~~except:except~~

5 (1) ~~from January 1 through March 1 in the area of Pamlico Sound described in 15A NCAC 03R .0109;~~
6 and

7 (2) ~~incidental to lawful oyster dredging operations in areas not subject to the exception in Subparagraph~~
8 ~~(a)(1) of this Rule provided the weight of the crabs shall not exceed:exceed the lesser of:~~

9 ~~(A)(1) 50-10 percent of the total weight of the combined oyster and crab catch; or~~

10 ~~(B)(2) 500 pounds, whichever is less, 100 pounds.~~

11 The Fisheries Director may, by proclamation authority established in 15A NCAC 03L .0201, further restrict the use
12 of dredges to take blue crabs.

13 ~~(b) It is unlawful to take crabs with dredges between sunset and sunrise and between sunset on any Saturday and~~
14 ~~sunrise on the following Monday, except in the Atlantic Ocean.~~

15

16 *History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*

17 *Eff. January 1, 1991;*

18 *Amended Eff. April 1, 2014; May 1, 1997;*

19 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03L .0204 is readopted as published in 36:07 NCR 479 as follows:

2

3 **15A NCAC 03L .0204 CRAB POTS**

4 (a) It ~~is~~ shall be unlawful to take crabs with pots except as provided in 15A NCAC 03J .0301 and .0302. The Fisheries
5 Director may, by proclamation authority established in 15A NCAC 03L .0201, further restrict the use of pots to take
6 blue crabs.

7 (b) The Fisheries Director may, by proclamation, require the use of terrapin excluder devices in each funnel entrance
8 in crab pots and impose the following restrictions concerning terrapin excluder devices:

- 9 (1) specify areas;
10 (2) specify time periods; and
11 (3) specify means and methods.

12

13 *History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*

14 *Eff. January 1, 1991;*

15 *Amended Eff. April 1, 2014;*

16 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03L .0205 is readopted with changes as published in 36:07 NCR 479 as follows:

2

3 **15A NCAC 03L .0205 CRAB SPAWNING SANCTUARIES**

4 (a) It ~~is shall be~~ unlawful to set or use trawls, pots, ~~and or~~ mechanical methods for ~~oysters or clams shellfish~~ or take
5 crabs with the use of commercial fishing equipment ~~from the crab spawning sanctuaries described in 15A NCAC 03R~~
6 ~~.0110 from March 1 through August 31~~ in crab spawning sanctuaries:

7 (1) from March 1 through August 31 for the crab spawning sanctuaries described in 15A NCAC 03R
8 .0110(1); and

9 (2) from March 1 through October 31 for the crab spawning sanctuaries described in 15A NCAC 03R
10 .0110(2).

11 (b) The Fisheries Director may, by proclamation, designate additional areas as crab spawning sanctuaries and may
12 impose the following restrictions in any crab spawning sanctuary:

- 13 (1) specify areas;
- 14 (2) specify time periods;
- 15 (3) specify means and methods; and
- 16 (4) specify limits on harvest based on size, quantity, sex, reproductive stage, or peeler stage.

17

18 *History Note:* Authority G.S. 113-134; 113-182; **113-182.1**; 113-221.1; 143B-289.52;

19 *Eff. January 1, 1991;*

20 *Amended Eff. May 1, 1997;*

21 *Temporary Amendment Eff. October 2, 1999;*

22 *Amended Eff. April 1, 2014; April 1, 2001;*

23 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03M .0201 is readopted with changes as published in 36:07 NCR 479-480 as follows:

2
3 **SECTION .0200 - STRIPED BASS**

4
5 **15A NCAC 03M .0201 STRIPED BASS REQUIREMENTS; GENERAL**

6 (a) ~~Striped bass is defined as striped bass~~ For the purpose of this Section, "striped bass" shall mean striped bass
7 (Morone saxatilis) and its hybrids taken in ~~coastal and joint fishing waters~~ Coastal and Joint Fishing ~~Waters~~ Waters
8 or imported from other states.

9 (b) It ~~is shall be~~ unlawful to possess striped bass ~~imported from other states that are~~ less than 18 inches long (total
10 length)-length) imported from other states.

11 (c) It ~~is shall be~~ unlawful to import, buy, sell, transport, offer to buy or sell, or possess striped bass except during any:

12 (1) open striped bass season established for ~~internal coastal waters~~ Internal Waters;

13 (2) open striped bass season established for the Atlantic Ocean; or

14 (3) open striped bass season of another state ~~without while in~~ possession of the following:

15 (A) ~~A~~ a bill of lading as described in 15A NCAC 03I .0114; and

16 (B) ~~A~~ a numbered, state-issued tag from the ~~State state~~ of origin affixed through the mouth and
17 gill cover. This tag must remain affixed until processed for consumption by the consumer.

18 (d) The management areas for estuarine striped bass fisheries in coastal North Carolina are designated in 15A NCAC
19 03R .0201.

20
21 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

22 *Eff. January 1, 1991;*

23 *Amended Eff. March 1, 1994; September 1, 1991;*

24 *Temporary Amendment Eff. May 1, 2000;*

25 *Amended Eff. June 1, 2013; October 1, 2008; October 1, 2004; April 1, 2001;*

26 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03M .0202 is readopted as published in 36:07 NCR 480 as follows:

2
3 **15A NCAC 03M .0202 STRIPED BASS SEASON, ~~SIZE-SIZE,~~ AND HARVEST LIMIT: INTERNAL**
4 **COASTAL WATERS**

5 (a) It ~~is shall be~~ unlawful to possess striped bass from the ~~coastal fishing waters~~ Coastal Fishing Waters of the Cape
6 Fear River and its tributaries.

7 (b) It ~~is shall be~~ unlawful to possess striped bass from the Roanoke River Management ~~Area~~ Area, as designated in
8 15A NCAC 03R .0201, in a commercial fishing operation.

9 (c) The Fisheries Director may, by ~~proclamation~~ proclamation, impose any ~~or all of~~ the following restrictions on the
10 taking of striped bass in a commercial fishing operation or for recreational purposes in ~~internal coastal waters~~ Internal
11 Waters during the period from October 1 through April 30:

12 (1) ~~Specify~~ specify fishing days and times;

13 (2) ~~Specify areas;~~ specify area;

14 (3) specify means and methods;

15 (4) specify size, but the minimum size specified shall not be less than 18 inches total length; and

16 (5) ~~Specify~~ specify quantity, except possession for recreational purposes shall not exceed:

17 (A) more than three fish in any one day in the Albemarle Sound Management ~~Area~~ Area, as
18 designated in ~~Rule~~ 15A NCAC 03R .0201; and

19 (B) more than two fish in any one day in the ~~joint and coastal fishing waters~~ Joint and Coastal
20 Fishing Waters of the Central Southern Management ~~Area~~ Area, as designated in ~~Rule~~ 15A
21 NCAC 03R .0201; .0201.

22 (4) ~~Specify means and methods; and~~

23 (5) ~~Specify size, but the minimum size specified shall not be less than 18 inches total length.~~

24 Fish that do not meet the minimum size limit specified by proclamation shall immediately be returned to the waters
25 from which taken regardless of condition.

26
27 *History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*

28 *Eff. January 1, 1991;*

29 *Amended Eff. March 1, 1996; November 1, 1991;*

30 *Temporary Amendment Eff. September 1, 1996;*

31 *Amended Eff. April 1, 1997;*

32 *Temporary Amendment Eff. July 1, 1999;*

33 *Amended Eff. June 1, 2013; July 1, 2008; August 1, 2000;*

34 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03M .0204 is readopted with changes as published in 36:07 NCR 480 as follows:

2

3 **15A NCAC 03M .0204 STRIPED BASS SEASON, ~~SIZE~~ SIZE, AND HARVEST LIMIT: ATLANTIC**
4 **OCEAN**

5 It ~~is shall~~ be unlawful to possess striped bass taken from the Atlantic Ocean ~~less other~~ than the size limit as ~~determined~~
6 established by the Atlantic States Marine Fisheries Commission ~~in their~~ Interstate ~~Fisheries~~ Fishery Management Plan
7 for ~~striped bass~~ Atlantic Striped Bass. The Fisheries Director shall issue proclamations necessary to bring North
8 Carolina's size limit in compliance with the Interstate ~~Fisheries~~ Fishery Management Plan.

9

10 *History Note: Authority G.S. 113-134; 113-182; 113-182.1; ~~113-221~~; 113-221.1; 143B-289.52;*
11 *Eff. January 1, 1991;*
12 *Amended Eff. March 1, 1996;*
13 *Temporary Amendment Eff. October 1, 1996;*
14 *Amended Eff. October 1, 2008; July 1, 1998;*
15 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03M .0205 is readopted with changes as published in 36:07 NCR 480 as follows:

2

3 **15A NCAC 03M .0205 STRIPED BASS; PROHIBITED TRAWLING**

4 (a) It ~~is shall be~~ unlawful to possess striped bass on a vessel with a trawl net on that vessel in ~~internal coastal waters~~
5 Internal Waters except during transit from ocean fishing grounds to port during any open striped bass trawl season in
6 the Atlantic Ocean established by proclamation. Striped bass so possessed ~~must shall~~ meet the minimum size limit set
7 by proclamation-proclamation issued under the authority of Rules .0204 or .0512 of this Subchapter.

8 (b) It ~~is shall be~~ unlawful to possess striped bass on a vessel in the Atlantic Ocean with a trawl net on that vessel
9 except during any open striped bass trawl season in the Atlantic Ocean established by proclamation-proclamation
10 issued under the authority of Rules .0204 or .0512 of this Subchapter.

11

12 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

13 *Eff. January 1, 1991;*

14 *Amended Eff. December 1, 2007;*

15 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03M .0503 is readopted with changes as published in 36:07 NCR 480-481 as follows:

2
3 **15A NCAC 03M .0503 FLOUNDER**

4 (a) It ~~is~~ shall be unlawful to possess flounder less than 14 inches total length taken from the Atlantic Ocean in a
5 commercial fishing operation.

6 (b) From October 1 through April 30, it shall be unlawful to use a trawl in the Atlantic Ocean within three miles of
7 the ocean beach from the North Carolina/Virginia state line (36° 33.000'N) to Cape Lookout (34° 36.000'N) unless
8 each trawl has a mesh length of ~~5-1/2~~ five and one-half inches or larger diamond mesh (stretched) or ~~6~~ six inches or
9 larger square mesh (stretched) applied throughout the body, ~~extension(s)~~ extensions, and the cod end (tailbag) of the
10 net except as provided in Paragraphs (g) and (h) of this Rule.

11 (c) License to Land Flounder from the Atlantic Ocean:

12 (1) ~~It is it shall be~~ shall be unlawful to land more than 100 pounds per trip of flounder taken from the Atlantic
13 Ocean unless the owner of the ~~vessel~~ vessel, or in the case of Land or Sell Licenses, the responsible
14 party, has been issued a License to Land Flounder from the Atlantic Ocean and the vessel in use is
15 the vessel specified on the License to Land Flounder from the Atlantic Ocean.

16 (2) ~~It is it shall be~~ shall be unlawful for a fish dealer to purchase or offload more than 100 pounds of flounder
17 taken from the Atlantic Ocean by a vessel whose owner, or in the case of Land or Sell Licenses, the
18 responsible party, has not first procured a valid North Carolina License to Land Flounder from the
19 Atlantic Ocean and the vessel in use is the vessel specified on the License to Land Flounder from
20 the Atlantic Ocean.

21 (3) ~~It is it shall be~~ shall be unlawful for any person to land flounder from the Atlantic Ocean under a License to
22 Land Flounder from the Atlantic Ocean unless that person is the holder of the license or the master
23 designated on the license.

24 (4) ~~It is it shall be~~ shall be unlawful for any individual to land flounder from the Atlantic Ocean without having
25 ready at hand for inspection a valid License to Land Flounder from the Atlantic Ocean, except as
26 specified in Subparagraph ~~(e)(1) of this Rule~~ (1) of this Paragraph.

27 (d) All fish dealer transactions in flounder landed from the Atlantic Ocean ~~must~~ shall be conducted in accordance
28 with the Atlantic Ocean Flounder Dealer Permits in 15A NCAC 03O .0503 and ~~related rules~~ permit requirements in
29 15A NCAC 03O .0500.

30 (e) It ~~is~~ shall be unlawful to transfer flounder taken from the Atlantic Ocean from one vessel to another.

31 (f) Tailbag liners of any mesh size, the multiple use of two or more cod ends, or other netting material that in any way
32 could restrict the legal size mesh shall not be used or possessed on the deck of a vessel in the Atlantic Ocean from
33 October 1 through April 30 from the North Carolina/Virginia state line (36° 33.000' N) to Cape Lookout (34°
34 36.0000'N).

35 (g) Trawls with a cod end mesh size smaller than described in Paragraph (b) of this Rule may be used or possessed
36 on the deck of a vessel provided not more than 100 pounds of flounder per trip from May 1 through October 31 or
37 more than 200 pounds from November 1 through April 30 is possessed aboard or landed from that vessel.

1 (h) Flynets are exempt from the flounder trawl mesh requirements if they meet the following ~~definition~~requirements:

- 2 (1) ~~The the~~ net has large mesh in the wings that measure ~~8-eight~~ inches to 64 inches;
- 3 (2) ~~The the~~ first body section (belly) of the net has 35 or more meshes that are at least ~~8-eight~~ inches;
- 4 and
- 5 (3) ~~The the~~ mesh decreases in size throughout the body of the net to as small as ~~2-two~~ inches or smaller
- 6 towards the terminus of the net.

7 (i) Commercial ~~Season~~Season:

- 8 (1) ~~The the~~ North Carolina season for landing ocean-caught flounder shall open January 1 each year. If
- 9 80 percent of the quota allocated to North Carolina in accordance with the joint Mid-Atlantic Fishery
- 10 Management Council/Atlantic States Marine Fisheries Commission Fishery Management Plan for
- 11 Summer Flounder is projected to be taken, the Fisheries Director shall, by proclamation, close North
- 12 Carolina ports to landing of flounder taken from the ocean.
- 13 (2) ~~The the~~ season for landing flounder taken in the Atlantic Ocean shall reopen November 1 if any of
- 14 the quota allocated to North Carolina in accordance with the joint Mid-Atlantic Fishery Management
- 15 Council/Atlantic States Marine Fisheries Commission Fishery Management Plan for Summer
- 16 Flounder remains. If after reopening, 100 percent of the quota allocated to North Carolina in
- 17 accordance with the joint Mid-Atlantic Fishery Management Council/Atlantic States Marine
- 18 Fisheries Commission Fishery Management Plan for Summer Flounder is projected to be taken prior
- 19 to the end of the calendar year, the Fisheries Director shall, by proclamation, close North Carolina
- 20 ports to landing of flounder taken from the ocean.
- 21 (3) ~~During~~during any closed season prior to November 1, vessels may land up to 100 pounds of
- 22 flounder per trip taken from the Atlantic Ocean.

23 (j) The Fisheries Director may, by proclamation, establish trip limits for the taking of flounder from the Atlantic

24 Ocean to assure that the individual state quota allocated to North Carolina in the joint Mid-Atlantic Fishery

25 Management Council/Atlantic States Marine Fisheries Commission Fishery Management Plan for Summer Flounder

26 is not exceeded.

27 (k) The Fisheries Director may, by proclamation, based on variability in environmental and local stock conditions,

28 take any ~~or all~~ of the following actions in the flounder fishery:

- 29 (1) specify time;
- 30 (2) specify area;
- 31 (3) specify means and methods;
- 32 (4) specify season;
- 33 ~~(1)(5)~~ Specify~~specify~~ size;
- 34 ~~(2)~~ Specify~~specify~~ season;
- 35 ~~(3)~~ Specify~~specify~~ area;
- 36 ~~(4)(6)~~ Specify~~specify~~ quantity; and
- 37 ~~(5)~~ Specify~~specify~~ means/methods; and

1 ~~(6)~~(7) ~~Require~~ require submission of statistical and biological data.

2 (l) Possession and sale of flounder by a hatchery or flounder aquaculture operation and purchase and possession of
3 flounder from a hatchery or flounder aquaculture operation shall be exempt from season and size limit restrictions set
4 under Paragraph (k) of this Rule. It ~~is~~ shall be unlawful to possess, sell, purchase, or transport such flounder unless
5 they are in compliance with all conditions of the Aquaculture ~~Operations~~ Operation Permit.

6
7 *History Note: Authority G.S. 113-134; 113-169.5; 113-182; ~~113-221~~; 113-221.1; 143B-289.52;*

8 *Eff. January 1, 1991;*

9 *Amended Eff. March 1, 1996; February 1, 1992;*

10 *Temporary Amendment Eff. November 1, 1995 for a period of 180 days or until the permanent rule*
11 *becomes effective, whichever is sooner;*

12 *Temporary Amendment Eff. December 23, 1996;*

13 *Amended Eff. April 1, 1997;*

14 *Temporary Amendment Eff. June 1, 1998; August 18, 1997;*

15 *Amended Eff. April 1, 1999;*

16 *Temporary Amendment Eff. May 1, 2000; July 1, 1999;*

17 *Amended Eff. April 1, 2001; August 1, 2000;*

18 *Temporary Amendment Eff. September 1, 2004;*

19 *Temporary Amendment Expired June 12, 2005;*

20 *Amended Eff. September 1, 2005;*

21 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03N .0104 is readopted as published in 36:07 NCR 481 as follows:

2

3 **15A NCAC 03N .0104 PROHIBITED GEAR, PRIMARY NURSERY AREAS**

4 It ~~is shall be~~ unlawful to use any trawl net, long haul seine, swipe net, dredge, ~~or mechanical method for clams or~~
5 ~~oysters~~ mechanical methods for clamming, or mechanical methods for oystering for the purpose of taking any marine
6 fishes in any of the primary nursery areas described in 15A NCAC ~~3R-03R~~ .0103.

7

8 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

9 *Eff. January 1, 1991;*

10 *Amended Eff. September 1, 1991;*

11 *Recodified from 15A NCAC 3N .0004 Eff. May 1, 1997;*

12 *Amended Eff. May 1, 1997;*

13 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03N .0105 is readopted as published in 36:07 NCR 481-482 as follows:

2

3 **15A NCAC 03N .0105 PROHIBITED GEAR, SECONDARY NURSERY AREAS**

4 (a) It ~~is~~ shall be unlawful to use trawl nets for any purpose in any of the permanent secondary nursery areas designated
5 in 15A NCAC 03R .0104.

6 (b) It ~~is~~ shall be unlawful to use trawl nets for any purpose in any of the special secondary nursery areas designated
7 in 15A NCAC 03R .0105, except that the Fisheries Director, may, by proclamation, open any ~~or all~~ of the special
8 secondary nursery areas, or any portion thereof, ~~listed~~ designated in 15A NCAC 03R .0105 to shrimp or crab trawling
9 from August 16 through May 14 subject to the provisions of 15A NCAC 03L .0100 and .0200.

10

11 *History Note: Authority G.S. 113-134; 113-182; ~~113-221~~; 113-221.1; 143B-289.52;*

12 *Eff. January 1, 1991;*

13 *Amended Eff. September 1, 1991;*

14 *Recodified from 15A NCAC 03N .0005 Eff. May 1, 1997;*

15 *Amended Eff. August 1, 2004; May 1, 1997;*

16 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03O .0101 is readopted as published in 36:07 NCR 482-485 as follows:

2
3 **SUBCHAPTER 03O - LICENSES, LEASES, ~~FRANCHISES~~ FRANCHISES, AND PERMITS**

4
5 **SECTION .0100 - LICENSES**

6
7 **15A NCAC 03O .0101 PROCEDURES AND REQUIREMENTS TO OBTAIN LICENSES,**
8 **~~ENDORSEMENTS~~ ENDORSEMENTS, AND COMMERCIAL FISHING VESSEL**
9 **REGISTRATIONS**

10 (a) Division of Marine Fisheries licenses are available at offices of the Division or by mail from the Morehead City
11 Office of the Division, unless otherwise specified. In addition, Recreational Commercial Gear Licenses are available
12 at license agents of the Wildlife Resources Commission in accordance with G.S. 113-270.1.

13 (b) For the purpose of this Rule, the procedures and requirements for the licensee shall also apply to the responsible
14 party, the person holding power of attorney, the tournament organizer, and the vessel master.

15 (a)(c) To obtain ~~any~~ Division of Marine Fisheries licenses, endorsements, ~~commercial fishing vessel registrations,~~
16 and Commercial Fishing Vessel Registrations, a licensee shall provide a completed application to an office of the
17 Division by mail or in person. Applications submitted without complete and required information shall not be
18 processed until all required information has been submitted. Incomplete applications shall be returned to the applicant
19 with deficiency in the application so noted. The following shall be required for the application: ~~except Recreational~~
20 Fishing Tournament Licenses to Sell Fish and Land or Sell Licenses, the following information is required for the
21 application by the licensee, a responsible party, or person holding a power of attorney:

22 (1) Full ~~full~~ name, physical address, mailing address, date of birth, and signature of the licensee ~~on the~~
23 application ~~licensee~~. If the licensee is not appearing before a license agent or a representative of the
24 Division, the licensee's signature ~~on the application~~ shall be ~~notarized~~; notarized.

25 (2) a statement from the licensee that the information and supporting documentation submitted with the
26 application is true and correct.

27 ~~(2)~~(3) Current ~~current~~ and valid picture identification of licensee ~~or responsible party~~; the licensee.
28 Acceptable forms of picture identification are ~~state driver's license, state identification card, card~~ card
29 issued by the Division of Motor Vehicles, military identification card, resident alien card (green
30 card), or passport; or if purchased by mail, a copy ~~thereof~~; thereof.

31 ~~(3)~~(4) Certification ~~certification~~ that the applicant does not have four or more marine or estuarine resource
32 violations ~~convictions~~ during the previous three ~~years~~; years.

33 (4) Valid ~~documentation papers or current motor boat registration, or copy thereof when purchasing a~~
34 commercial fishing vessel registration. If an application for transfer of documentation is pending, a
35 copy of the pending application and a notarized bill of sale may be submitted;

36 (5) Current ~~current~~ articles of incorporation and a current list of corporate officers when purchasing a
37 license or ~~commercial fishing vessel registration~~ Commercial Fishing Vessel Registration in a

1 corporate name. In the case of incorporation of an individual fishing vessel, the name of the vessel
2 master ~~of that vessel~~ shall also be specified. The ~~responsible party~~ licensee shall notify the Morehead
3 City Office of the Division of Marine Fisheries within five days of ~~change of the master specified~~
4 ~~for that vessel;~~ changing the vessel master.

5 (6) a current copy of a written partnership agreement shall be provided when purchasing a license,
6 endorsement, or Commercial Fishing Vessel Registration in a partnership name, if a partnership is
7 established.

8 (7) valid documentation papers or current motor boat registration, or copy thereof when purchasing a
9 Commercial Fishing Vessel Registration. If an application for transfer of documentation is pending,
10 a copy of the pending application and a notarized bill of sale may be submitted.

11 ~~(6)(8)~~ An affirmation of liability insurance and that the operator is knowledgeable of United States Coast
12 Guard (USCG) safety requirements for the vessel(s)-vessels used in the operation in accordance
13 with G.S. 113-168.6 when purchasing a ~~commercial fishing vessel registration~~-Commercial Fishing
14 Vessel Registration with a for-hire endorsement.

15 (7) ~~If a partnership is established by a written partnership agreement, a current copy of such agreement~~
16 ~~shall be provided when purchasing a license, endorsement, or commercial fishing vessel registration~~
17 ~~in a partnership name;~~

18 (8) ~~For nonresidents, certification of the state of residency;~~

19 (9) ~~In addition to the information required in G.S. 113-169.4, linear length of pier when purchasing an~~
20 ~~Ocean Fishing Pier License;~~

21 (10) ~~In addition to the information required in G.S. 113-171.1, current aircraft registration and list of~~
22 ~~operator(s) when purchasing a Spotter Plane License;~~

23 (11) ~~In addition, for fish dealers licenses, the physical address of the established location where business~~
24 ~~is conducted and, if different, the address where records are kept;~~

25 (12) ~~When purchasing a Fish Dealer License with clam or oyster categories or a consolidated license, the~~
26 ~~applicant shall provide valid certification as a North Carolina-certified shellfish dealer;~~

27 (13) ~~In addition, for the Blanket For Hire Captain's Coastal Recreational Fishing License (CRFL), the~~
28 ~~applicant shall provide a valid certification from the USCG that allows carrying six or fewer~~
29 ~~passengers or a certification from the USCG that allows carrying more than six passengers; and~~

30 (14) ~~In addition, for the Blanket For Hire Vessel CRFL or the Non Blanket For Hire Vessel License,~~
31 ~~valid documentation papers or current motor boat registration or copies thereof for the vessel~~
32 ~~engaged as for hire. If an application for transfer of documentation is pending, a copy of the pending~~
33 ~~application and a notarized bill of sale may be submitted.~~

34 (d) In addition to the requirements of Paragraph (c) of this Rule, proof of residency for non-residents shall be
35 documented by the licensee with certification of the state of residency. Proof of residency for residents of North
36 Carolina shall be documented by the licensee as follows:

1 (1) Standard or Retired Standard Commercial Fishing Licenses: A notarized certification from the
2 applicant that the applicant is a resident of the State of North Carolina as defined by G.S. 113-130(4)
3 and:

4 (A) a notarized certification from the applicant that a North Carolina State Income Tax Return
5 was filed for the previous calendar or tax year as a North Carolina resident;

6 (B) a notarized certification that the applicant was not required to file a North Carolina State
7 Income Tax Return for the previous calendar or tax year; or

8 (C) military identification or military dependent identification, and permanent change of
9 station orders or assignment orders substantiating the military individual's active duty
10 assignment at a military facility in North Carolina.

11 (2) All other types of licenses:

12 (A) North Carolina voter registration card;

13 (B) current North Carolina Driver's License;

14 (C) current North Carolina Certificate of Domicile;

15 (D) current North Carolina Identification Card issued by the North Carolina Division of Motor
16 Vehicles; or

17 (E) military identification or military dependent identification, and permanent change of
18 station orders or assignment orders substantiating the military individual's active duty
19 assignment at a military facility in North Carolina.

20 (e) In addition to the requirements in Paragraphs (c) and (d) of this Rule, the following shall be required:

21 (1) Blanket For-Hire Captain's CRFL: a valid certification from the USCG that allows carrying six or
22 fewer passengers or a certification from the USCG that allows carrying more than six passengers.

23 (2) Blanket For-Hire Vessel CRFL or Non-Blanket For-Hire Vessel License:

24 (A) valid documentation papers or current motor boat registration, or copies thereof for the
25 vessel engaged as for-hire; or

26 (B) a copy of the pending application and a notarized bill of sale if an application for transfer
27 of documentation is pending.

28 (3) Fish Dealer License:

29 (A) the physical address of the established location where business is conducted and, if
30 different, the address where records are kept; and

31 (B) a valid Permit and Certificate of Compliance from the Division of Marine Fisheries
32 Shellfish Sanitation and Recreational Water Quality Section, if purchasing a Fish Dealer
33 License with clam or oyster categories or a consolidated license.

34 (4) Land or Sell License:

35 (A) valid documentation papers or current motor boat registration, or copy thereof; or

36 (B) a copy of the pending application and a notarized bill of sale if an application for transfer
37 of documentation is pending.

1 The fees for a Land or Sell License shall be based on the vessel's homeport as it appears on the USCG
2 documentation papers or the state in which the vessel is registered, in accordance with G.S. 113-169.5.

3 (5) Ocean Fishing Pier License:

4 (A) the information required in G.S. 113-169.4; and

5 (B) linear length of the pier. A Marine Fisheries inspector's signature is required to verify the
6 linear length of the pier before the license can be issued.

7 (6) Recreational Fishing Tournament License to Sell Fish: name and date or dates of the tournament.

8 (7) Spotter Plane License:

9 (A) the information required in G.S. 113-171.1;

10 (B) the current aircraft registration; and

11 (C) a list of operators.

12 ~~(b)(f)~~ For a License to Land Flounder from the Atlantic Ocean, in addition to the requirements in Paragraphs
13 (c) and (d) of this Rule, the following shall be applicable:

14 (1) for the purpose of this Paragraph, "license year" means the period beginning July 1 of a year through
15 June 30 of the following year.

16 ~~(1)(2)~~ To to qualify for a License to Land Flounder from the Atlantic Ocean, the applicant shall:

17 (A) have landed in North Carolina at least 1,000 pounds of flounder from a single vessel each
18 year from the Atlantic Ocean during any two of the 1992-93, 1993-94, 1994-95 license
19 years for which the person had a vessel that was licensed to land in North Carolina; and

20 (B) have been licensed under G.S. 113-152 or 113-153 during any two of the 1992-93, 1993-
21 94, or 1994-95 license years; and

22 (C) hold a valid Standard or Retired Standard Commercial Fishing License or valid Land or
23 Sell License.

24 ~~(2)(3)~~ It is lawful it shall be unlawful for a person to hold more Licenses to Land Flounder from the Atlantic
25 Ocean equal to than the number of vessels that he owns the person owns that individually met the
26 eligibility requirements of Parts ~~(b)(1)(A)-(f)(2)(A)~~ and ~~(b)(1)(B)-(f)(2)(B)~~ of this Rule.

27 ~~(3)(4)~~ The the License to Land Flounder from the Atlantic Ocean is only valid when used on the vessel
28 specified at the time of license issuance.

29 ~~(4)(5)~~ At at the time of issuance, the applicant for the License to Land Flounder from the Atlantic Ocean
30 shall specify the name of the vessel master of the vessel for each License to Land Flounder from the
31 Atlantic Ocean issued.

32 ~~(5)(6)~~ The the holder of the License to Land Flounder from the Atlantic Ocean shall notify the Morehead
33 City Office of the Division of Marine Fisheries within five days of change as to the vessel master
34 identified on the license.

35 ~~(6)(7)~~ Licenses to Land Flounder from the Atlantic Ocean are issued for the current license year and expire
36 on June 30 year.

1 (g) For a Recreational Fishing Tournament License to Sell Fish, in addition to the requirements in Paragraphs (c) and
2 (d) of this Rule, the following shall be applicable:

3 (1) it shall be unlawful for anyone other than the holder of the Recreational Fishing Tournament License
4 to Sell Fish to sell fish taken during a recreational fishing tournament.

5 (2) fish to be sold under the Recreational Fishing Tournament License to Sell Fish shall be sold only to
6 licensed fish dealers and shall comply with all applicable rules of the Marine Fisheries Commission
7 or provisions of proclamations issued by the Fisheries Director as authorized by the Marine Fisheries
8 Commission.

9 (3) it shall be unlawful for a licensed recreational fishing tournament organizer to fail to accurately and
10 legibly complete a North Carolina Recreational Fishing Tournament Disposition of Proceeds from
11 the Sale of Fish Form provided by the Division of Marine Fisheries and submit the form to the
12 Division within 30 days after the last day of the tournament.

13 (h) It shall be unlawful for a license, endorsement, or Commercial Fishing Vessel Registration holder to fail to notify
14 the Division of Marine Fisheries within 30 days of a change of name or address, in accordance with G.S. 113-169.2.

15 ~~(e) To obtain a Recreational Fishing Tournament License to Sell Fish, the tournament organizer shall apply with the~~
16 ~~Division of Marine Fisheries at least 30 days prior to the starting date of the tournament with the following required~~
17 ~~information:~~

18 ~~(1) Full name, physical address, mailing address, date of birth, signature of the tournament organizer,~~
19 ~~name of tournament, and dates of tournament on the license application. If the licensee is not~~
20 ~~appearing before a representative of the Division, the licensee's signature shall be notarized on the~~
21 ~~application.~~

22 ~~(2) Current picture identification of tournament organizer. Acceptable forms of picture identification~~
23 ~~are driver's license, state identification card, military identification card, resident alien card (green~~
24 ~~card), or passport; or if purchased by mail, a copy thereof.~~

25 ~~(d) To obtain a Land or Sell License, the following information is required for a proper application:~~

26 ~~(1) Full name, physical address, mailing address, date of birth, and signature of the responsible party or~~
27 ~~master for the vessel on the license application. If the licensee is not appearing before a~~
28 ~~representative of the Division, the licensee's signature on the application shall be notarized on the~~
29 ~~application;~~

30 ~~(2) Current picture identification of responsible party or master. Acceptable forms of picture~~
31 ~~identification are driver's license, state identification card, military identification card, resident alien~~
32 ~~card (green card), or passport; or if applying by mail, a copy thereof;~~

33 ~~(3) Valid documentation papers or current motor boat registration or copy thereof when purchasing a~~
34 ~~commercial fishing vessel registration. If an application for transfer of documentation is pending,~~
35 ~~a copy of the pending application and a notarized bill of sale may be submitted.~~

36 ~~Fees shall be based on the vessel's homeport as it appears on the U.S. Coast Guard documentation papers or the State~~
37 ~~in which the vessel is registered, in accordance with G.S. 113-169.5.~~

1 ~~(e) Proof of residency in North Carolina for:~~

2 ~~(1) Standard Commercial Fishing License or Retired Standard Commercial Fishing License shall~~
3 ~~require a notarized certification from the applicant that the applicant is a resident of the State of~~
4 ~~North Carolina as defined by G.S. 113-130(4); and~~

5 ~~(A) a notarized certification from the applicant that a North Carolina State Income Tax Return~~
6 ~~was filed for the previous calendar or tax year as a North Carolina resident;~~

7 ~~(B) a notarized certification that the applicant was not required to file a North Carolina State~~
8 ~~Income Tax Return for the previous calendar or tax year; or~~

9 ~~(C) military identification, military dependent identification and permanent change of station~~
10 ~~orders or assignment orders substantiating individual's active duty assignment at a military~~
11 ~~facility in North Carolina.~~

12 ~~(2) All other types of licenses:~~

13 ~~(A) North Carolina voter registration card; or~~

14 ~~(B) Current North Carolina Driver's License; or~~

15 ~~(C) Current North Carolina Certificate of Domicile; or~~

16 ~~(D) Current North Carolina Identification Card issued by the North Carolina Division of Motor~~
17 ~~Vehicles; or~~

18 ~~(E) Military identification, military dependent identification and permanent change of station~~
19 ~~orders or assignment orders substantiating individual's active duty assignment at a military~~
20 ~~facility in North Carolina.~~

21 ~~(f) Applications submitted without complete and required information shall not be processed until all required~~
22 ~~information has been submitted. Incomplete applications shall be returned to the applicant with deficiency in the~~
23 ~~application so noted.~~

24 ~~(g) It is unlawful for a license or registration holder to fail to notify the Division of Marine Fisheries within 30 days~~
25 ~~of a change of name or address, in accordance with G.S. 113-169.2.~~

26 ~~(h) Licenses are available at Offices of the Division or by mail from the Morehead City Office, unless otherwise~~
27 ~~specified. In addition, Recreational Commercial Gear Licenses are available at Wildlife Service Agents who have~~
28 ~~been designated as agents of the Department.~~

29 ~~(i) To renew any Marine Fisheries licenses, endorsements, and commercial fishing vessel registration, except~~
30 ~~Recreational Commercial Gear Licenses, the following is required for the renewal application by the licensee, a~~
31 ~~responsible party, or person holding a power of attorney;~~

32 ~~(1) The information required in Subparagraphs (a)(4), (a)(5), and (a)(6) of this Rule are only required~~
33 ~~if a change has occurred since the last issuance of license, endorsement, or commercial fishing vessel~~
34 ~~registration.~~

35 ~~(2) Certification that articles of incorporation and list of corporate officers, if incorporated, written~~
36 ~~partnership agreement, if written partnership, or documentation papers or motor boat registration~~
37 ~~previously provided for initial license purchase are still valid and current for renewal.~~

- 1 (3) ~~Current and valid state driver's license or state identification picture identification numbers and~~
2 ~~expiration dates shall be verified on mail license renewal applications or any other electronic license~~
3 ~~renewal process, otherwise the licensee shall provide a photocopy for renewal by mail or visit a~~
4 ~~Division License Office and present a current and valid picture identification pursuant to~~
5 ~~Subparagraph (a)(2) of this Rule.~~
- 6 (4) ~~The licensee's or responsible party's signature on the application shall certify all information as true~~
7 ~~and accurate. Notarization of signature on renewal applications shall not be required.~~
- 8 (5) ~~The Division of Marine Fisheries may require current copies of documentation for licenses,~~
9 ~~endorsements, or commercial fishing vessel registration on renewal when necessary to verify~~
10 ~~inconsistent information or the information cannot be verified by independent sources.~~
- 11 (6) ~~If the linear length of the pier has not changed for the Ocean Fishing Pier License renewal, the~~
12 ~~responsible party shall certify that the length is accurate; otherwise, a Marine Patrol Officer's~~
13 ~~signature is required to certify the linear length before the license can be renewed.~~
- 14 (7) ~~Certification that shellfish dealer certification by North Carolina previously provided for issuance~~
15 ~~of Fish Dealer License with clam or oyster categories or consolidated license is still valid and current~~
16 ~~for renewal.~~

17

18 *History Note:* ~~Authority G.S. 113-134; 113-168; 113-168.1-6; 113-169; 113-169.2-5; 113-171.1; 113-174.3; 113-~~
19 ~~182; 143B-289.52;~~
20 ~~Eff. January 1, 1991;~~
21 ~~Amended Eff. July 1, 1997; March 1, 1994;~~
22 ~~Temporary Amendment Eff. July 1, 1999;~~
23 ~~Amended Eff. August 1, 2000;~~
24 ~~Temporary Amendment Eff. April 1, 2001;~~
25 ~~Amended Eff. May 1, 2015; July 1, 2008; December 1, 2006; August 1, 2004; August 1, 2002;~~
26 ~~Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).~~

1 15A NCAC 03O .0102 is readopted as published in 36:07 NCR 485-486 as follows:

2
3 **15A NCAC 03O .0102 ~~RECREATIONAL FISHING TOURNAMENT LICENSE TO SELL FISH~~**
4 **PROCEDURES AND REQUIREMENTS TO RENEW LICENSES,**
5 **ENDORSEMENTS, AND COMMERCIAL FISHING VESSEL REGISTRATIONS**

6 ~~(a) It is unlawful for anyone other than the holder of the Recreational Fishing Tournament License to Sell Fish to sell~~
7 ~~fish taken during a recreational fishing tournament.~~

8 ~~(b) Fish to be sold under the Recreational Fishing Tournament License to Sell Fish must be sold only to licensed fish~~
9 ~~dealers and shall comply with all applicable rules of the Marine Fisheries Commission (MFC) or provisions of~~
10 ~~proclamations issued by the Fisheries Director as authorized by the MFC.~~

11 ~~(c) It is unlawful for a licensed recreational fishing tournament organizer to fail to accurately and legibly complete~~
12 ~~and file within 30 days after the last day of the tournament a North Carolina Recreational Fishing Tournament~~
13 ~~Disposition of Proceeds from the Sale of Fish Form provided by the Division.~~

14 ~~(a) For the purpose of this Rule, the procedures and requirements for the licensee shall also apply to the responsible~~
15 ~~party, the person holding power of attorney, the tournament organizer, and the vessel master.~~

16 ~~(b) To renew Division of Marine Fisheries licenses, endorsements, and Commercial Fishing Vessel Registrations,~~
17 ~~except Recreational Commercial Gear Licenses, a renewal application shall be submitted by the licensee. Applications~~
18 ~~submitted without complete and required information shall not be processed until all required information has been~~
19 ~~submitted. Incomplete applications shall be returned to the licensee with deficiency in the application so noted. The~~
20 ~~following is required for the renewal application:~~

- 21 (1) full name, physical address, mailing address, date of birth, and signature of the licensee.
- 22 (2) a statement from the licensee that the information and supporting documentation submitted with the
23 application is true and correct.
- 24 (3) current and valid picture identification of the licensee. Acceptable forms of picture identification
25 are state driver's license, state identification card issued by the Division of Motor Vehicles, military
26 identification card, resident alien card (green card), or passport; or if purchased by mail, a copy
27 thereof.
- 28 (4) the information required in Rule .0101(c)(4) through (c)(8) of this Section, if changed since last
29 issuance of the license, endorsement, or Commercial Fishing Vessel Registration.
- 30 (5) the information required in Rule .0101(e)(1) of this Section, if the linear length of the Ocean Fishing
31 Pier has changed.
- 32 (6) a valid Permit and Certificate of Compliance from the Division's Shellfish Sanitation and
33 Recreational Water Quality Section, if renewing a Fish Dealer License with clam or oyster
34 categories or a consolidated license.
- 35 (7) certification that all information on the application is true and accurate. Notarization of the signature
36 on renewal applications shall not be required.

1 The Division may require current copies of documentation for licenses, endorsements, and Commercial Fishing Vessel
2 Registrations upon renewal when necessary to verify inconsistent information or the information cannot be verified
3 by independent sources.
4

5 *History Note: Authority G.S. 113-134; 113-168; ~~113-168.4~~; 113-168.1-6; 113-169.2-5; 113-171.1; 113-174.3;*
6 *113-182; 143B-289.52;*
7 *Eff. January 1, 1991;*
8 *Amended Eff. March 1, 1994;*
9 *Temporary Amendment Eff. July 1, 1999;*
10 *Amended Eff. April 1, 2020; December 1, 2006; August 1, 2000;*
11 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03O .0103 is readopted with changes as published in 36:07 NCR 486 as follows:

2

3 **15A NCAC 03O .0103 AUXILIARY VESSELS**

4 (a) ~~Buy boats, run boats, purse boats or any other vessels used in conjunction with commercial fishing operations,~~
5 ~~except vessels without motors used in connection with other vessels with commercial fishing vessel registrations, shall~~
6 ~~have a commercial fishing vessel registration.~~ It shall be unlawful to fail to comply with Commercial Fishing Vessel
7 Registration requirements set forth in G.S. 113-168.6 to operate a ~~buy vessel, run vessel, purse vessel, or any other~~
8 ~~vessel used in conjunction with a commercial fishing~~ operation, except as specified, operation.

9 (b) ~~A person~~ An individual in command of a vessel that is auxiliary to a vessel with a ~~commercial fishing vessel~~
10 ~~registration~~ Commercial Fishing Vessel Registration with a ~~person~~ an individual aboard who holds a Standard
11 Commercial Fishing License or a Retired Standard Commercial Fishing License engaged in a commercial fishing
12 operation using a pound net, ~~long haul, long haul, or beach seine or purse seine~~ is exempt from the provisions of G.S.
13 113-168.2 (a1).

14

15 *History Note: Authority G.S. 113-134; 113-168.1; 113-168.2; 113-168.5; 113-168.6; ~~113-169; 113-182; 143B-~~*
16 *289.52;*

17 *Eff. January 1, 1991;*

18 *Temporary Amendment Eff. July 1, 1999;*

19 *Amended Eff. August 1, 2000;*

20 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03O .0104 is readopted as published in 36:07 NCR 486 as follows:

2

3 **15A NCAC 03O .0104 COMMERCIAL UNLOADING OF FISH**

4 It ~~is shall be~~ unlawful to unload fish from a vessel in North Carolina ~~which that~~ has been engaged in a commercial
5 fishing operation outside ~~state~~ State waters without possessing a valid:

6 (1) Standard or Retired Standard Commercial Fishing ~~Licenses; or~~ License with applicable
7 endorsement;

8 ~~(2) Menhaden License for Nonresidents Without a Standard Commercial Fishing License; or~~

9 ~~(3)(2)~~ Shellfish License for North Carolina Residents without a Standard Commercial Fishing
10 Licenses; License; or

11 ~~(4)(3)~~ Land or Sell License.

12

13 *History Note: Authority G.S. 113-134; 113-168.1; 113-168.2; 113-168.4; ~~113-169; 113-169.5; 113-182; 143B-~~*
14 *289.52;*

15 *Eff. January 1, 1991;*

16 *Temporary Amendment Eff. July 1, 1999;*

17 *Amended Eff. August 1, 2000;*

18 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03O .0105 is readopted as published in 36:07 NCR 486 as follows:

2

3 **15A NCAC 03O .0105 REQUIREMENTS FOR BAIT AND MUSSEL DEALERS**

4 ~~(a) Persons dealing in minnows, live shrimp, or both minnows and live shrimp for bait purposes, who are subject to~~
5 ~~licensing requirements under G.S. 113-169.3 are required to purchase only the license applicable to finfish dealers. A~~
6 ~~bona fide dealer in shrimp, licensed under the provisions of G.S. 113-169.3, may, however, deal in minnows as well~~
7 ~~as live shrimp for bait purposes, as an incident of his operations under his shrimp dealer's license.~~

8 ~~(b) Persons dealing in mussels who are subject to licensing requirements under the provisions of G.S. 113-169.3 are~~
9 ~~shall be required to purchase only the license applicable to clam dealers and meet the shellfish dealer certification~~
10 ~~requirements in 15A NCAC 03O .0101(a)(11). shall be required to hold a valid Permit and Certificate of Compliance~~
11 ~~from the Division of Marine Fisheries Shellfish Sanitation and Recreational Water Quality Section, as described in~~
12 ~~Rule .0101 of this Section.~~

13

14 *History Note: Authority G.S. 113-134; 113-169.3; 113-182; 143B-289.52;*

15 *Eff. January 1, 1991;*

16 *Temporary Amendment Eff. July 1, 1999;*

17 *Amended Eff. August 1, 2004; August 1, 2000;*

18 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03O .0107 is readopted as published in 36:07 NCR 486-487 as follows:

2

3 **15A NCAC 03O .0107 ~~LOST-LICENSE REPLACEMENT~~ AND FEES**

4 ~~(a) Lost licenses except Blanket Coastal Recreational Fishing Licenses, endorsements, and commercial fishing vessel~~
5 ~~registration decals may be replaced upon payment of a fee of ten dollars (\$10.00) or a fee equal to the initial cost of~~
6 ~~the license, endorsement, or commercial fishing vessel registration, whichever is less.~~A licensee shall receive a
7 replacement for a commercial license, endorsement, Commercial Fishing Vessel Registration decal, or Recreational
8 Commercial Gear License upon payment to the Division of Marine Fisheries a fee of ten dollars (\$10.00) or a fee
9 equal to the initial cost of the license, endorsement, or Commercial Fishing Vessel Registration, whichever is less.

10 ~~(b) The replacement fee for the Blanket Coastal Recreational Fishing Licenses is five dollars (\$5.00).~~A licensee shall
11 receive a replacement Coastal Recreational Fishing License or a for-hire license as defined in G.S. 113-174.3 upon
12 payment to the Division of Marine Fisheries a fee of five dollars (\$5.00).

13

14 *History Note: Authority G.S. 113-134; 113-168.1; 113-168.6; 113-169.4; 113-173; 113-174.1; 113-174.2; 113-*
15 *174.3; 113-182; 143B-289.52;*

16 *Eff. January 1, 1991;*

17 *Temporary Amendment Eff. July 1, 1999;*

18 *Amended Eff. December 1, 2006; August 1, 2000;*

19 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03O .0109 is readopted with changes as published in 36:07 NCR 487 as follows:

2
3 **15A NCAC 03O .0109 ASSIGNMENT OF ~~SCFL~~ STANDARD COMMERCIAL FISHING LICENSE**

4 (a) For the purpose of this Rule, "licensee" shall mean the person issued a Standard Commercial Fishing License and
5 "assignee" shall mean the individual to whom the licensee assigns a Standard Commercial Fishing License in
6 accordance with the requirements of this Rule.

7 ~~(a)~~(b) The Division of Marine Fisheries shall provide assignment forms to the licensee upon issuance of the Standard
8 Commercial Fishing License request. Assignment must be made on the Only Division assignment forms. ~~forms shall~~
9 be used to obtain an assignment. On the assignment form, the ~~Standard Commercial Fishing License holder must~~
10 licensee shall designate what, if any, endorsements are included in the assignment. Endorsements ~~may~~ shall not be
11 assigned independent of the Standard Commercial Fishing License. It is ~~shall be~~ unlawful for the ~~Standard Commercial~~
12 Fishing License holder licensee or the assignee to fail to submit within five days the completed assignment form to
13 any office of the Division in person or by mail to the Morehead City ~~Division~~ Office. The Morehead City Office is
14 located at 3441 Arendell Street, Morehead City, North Carolina, 28557. If the completed assignment form is not
15 received by the Division within five days from the date it was signed, the assignment shall be null and void. Incomplete
16 forms shall be returned to the licensee with deficiency in the form so noted. An assignment is in effect from the date
17 specified on the assignment form and when:

- 18 (1) the assignment form is properly completed; complete with all required information;
19 (2) signatures of the current license holder and the assignee are notarized; and
20 (3) the assignee has in their the assignee's possession the current licensee's original actual Standard
21 Commercial Fishing License with License, including applicable endorsements of the current license
22 holder in accordance with G.S. 113-169.2.

23 (c) For an extension of time for assignments, a new assignment form shall be completed in accordance with
24 Subparagraphs (b)(1) through (b)(3) of this Rule.

25 ~~(b)~~(d) Assignments ~~terminate when;~~ shall terminate:

- 26 (1) when the date specified on the assignment form is reached; ~~or~~
27 (2) if the licensee or assignee are determined ineligible for a license or assignment; ~~or~~
28 (3) if the Division receives a notarized statement from the current license holder stating a revised date
29 for an earlier assignment termination; ~~or~~
30 (4) upon the licensee or assignee's death; or
31 (5) when the Standard Commercial Fishing License expires.

32 ~~If the properly completely assignment form is not received by the Division within five days from the date it was~~
33 ~~signed, the assignment is null and void. For an extension of time for assignments, a new assignment form must be~~
34 ~~completed in accordance with Subparagraphs (a)(1) — (3) of this Rule.~~

35 ~~(e)~~(e) It is ~~shall be~~ unlawful for an individual assigned a Standard Commercial Fishing License ~~to fail to have available~~
36 ~~ready at hand for inspection all required documents as stated under G.S. 113-168.1. The assignee when involved in a~~
37 ~~commercial fishing operation must to fail to have the original actual Standard Commercial Fishing License and~~

1 ~~License, any assigned endorsements~~ endorsements, and a copy of the assignment form in ~~their~~ the individual's
2 possession ready at hand for ~~inspection~~ inspection in accordance with G.S. 113-168.1.

3 ~~(d)(f)~~ All landings occurring during the time of the assignment shall be credited to the ~~Standard Commercial Fishing~~
4 ~~License holder, licensee,~~ not the assignee.

5 ~~(e)(g)~~ It ~~is~~ shall be unlawful to be assigned more than a single Standard Commercial Fishing License at any one time.
6 It ~~is~~ shall be unlawful to assign a Standard Commercial Fishing License to more than one individual at any one time.
7 Assignments ~~may~~ shall only be made by the ~~person issued the Standard Commercial Fishing License~~ licensee and
8 ~~may~~ shall not be further assigned by assignees. Masters identified on the Standard Commercial Fishing Licenses of
9 corporations consisting of an individual fishing vessel ~~may~~ shall not assign such licenses.

10 ~~(f)(h)~~ It ~~is~~ shall be unlawful for a person to accept assignment of a Standard Commercial Fishing License for which
11 they are ineligible.

12 ~~(g)~~ Assignments submitted without complete and required information shall be deemed not in effect and shall not be
13 considered further until resubmitted with all required information.

14 ~~(h)(i)~~ It ~~is~~ shall be unlawful for any assignee of a Standard Commercial Fishing License not to return the assignment
15 and the Standard Commercial Fishing License with any assigned endorsements to the ~~assignor of that license~~ licensee
16 within five days of notice that the assignment has been terminated or a demand by the ~~assignor~~ licensee to return the
17 license.

18
19 *History Note:* Authority G.S. 113-134; 113-135; 113-168.1; 113-168.2; 113-168.5; 113-169.2; 113-182; 113-187;
20 143B-289.52;
21 *Eff. January 1, 1991;*
22 *Temporary Amendment Eff. October 2, 1999; July 1, 1999;*
23 *Amended Eff. August 1, 2000;*
24 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03O .0110 is readopted as published in 36:07 NCR 487 as follows:

2

3 **15A NCAC 03O .0110 LICENSE REFUNDS**

4 All license fees are non-refundable except ~~when~~if licenses are issued by the Division of Marine Fisheries in error.

5

6 *History Note: Authority G.S. 113-134; ~~113-168.1; 113-173; 113-182;~~ 143B-289.52; 147-84; ~~1993 (Regular~~
7 ~~Session 1994), c. 576, s. 3;~~*

8 *Eff. March 1, 1995;*

9 *Temporary Amendment Eff. July 1, 1999;*

10 *Amended Eff. August 1, 2000;*

11 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03O .0111 is readopted with changes as published in 36:07 NCR 488 as follows:

2

3 **15A NCAC 03O .0111 SURRENDER OF LICENSES**

4 (a) It ~~is~~ shall be unlawful for any licensee to refuse to surrender to an agent of the Secretary all licenses, license
5 receipts, endorsements, commercial fishing vessel registration or decals, and other forms and records relating to the
6 license following service of notice of suspension or revocation of licenses in accordance with G.S. ~~113-171~~, 113-171
7 and Rule .0114 of this Section.

8 (b) It ~~is~~ shall be unlawful for any person in custody or possession of any licenses, license receipt, endorsements,
9 commercial fishing vessel registration or decals, and other documentation required to be surrendered to refuse to
10 surrender same to an agent of the Secretary making such demand.

11 (c) A license issued by the Division in error shall be required to be surrendered immediately upon service of a notice
12 by an agent of the Fisheries Director to surrender the license.

13

14 *History Note: Authority G.S. 113-134; 113-171; 113-182; 143B-289.52; S.L. 2010-145; 2010-145, s. 1;*

15 *Temporary Adoption Eff. July 1, 1999;*

16 *Eff. August 1, 2000;*

17 *Amended Eff. October 1, 2012;*

18 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03O .0113 is readopted with changes as published in 36:07 NCR 488 as follows:

2

3 **15A NCAC 03O .0113 OCEAN FISHING PIER REPORTING REQUIREMENTS**

4 It ~~is shall be~~ unlawful for the responsible party of the Ocean Fishing Pier License to fail to provide to the Division of
5 Marine Fisheries by the 10th of each month a daily count of anglers fishing from the licensed pier from the previous
6 month, including a daily count of zero for days when anglers did not fish. The information shall be submitted on a
7 paper form provided by the Division or via electronic mail to the electronic mail address provided at the time of license
8 ~~application-issuance.~~

9

10 *History Note: Authority G.S. 113-134; 113-169.4; **113-170.3**; 113-174.1; 113-182; 143B-289.52;*

11 *Eff. April 1, 2011;*

12 *Amended Eff. May 1, 2015;*

13 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03O .0114 is readopted with changes as published in 36:07 NCR 488-489 as follows:

2
3 **15A NCAC 03O .0114 SUSPENSION, REVOCATION, AND REISSUANCE OF LICENSES**

4 (a) All commercial and recreational licenses issued under Article 14A, Article 14B, and Article 25A of Chapter 113
5 shall be subject to suspension and revocation.

6 (b) A conviction resulting from being charged by an inspector under G.S. 14-32, 14-33, 14-72, or 14-399 shall be
7 deemed a conviction for the purposes of license suspension or revocation.

8 (c) Upon receipt of notice of a licensee's conviction as specified in G.S. 113-171 or a conviction as specified in
9 Paragraph (b) of this Rule, the Fisheries Director shall determine whether it is a first, second, third, fourth, or
10 subsequent conviction. Where several convictions result from a single transaction or occurrence, the convictions shall
11 be treated as a single conviction for the purposes of license suspension or revocation. For a second conviction, the
12 Fisheries Director shall suspend all licenses issued to the licensee for a period of 30 days; for a third conviction, the
13 Fisheries Director shall suspend all licenses issued to the licensee for a period of 90 days; for a fourth or subsequent
14 conviction, the Fisheries Director shall revoke all licenses issued to the licensee, except:

15 (1) for a felony conviction under G.S. 14-399, the Fisheries Director shall suspend all licenses issued
16 to the licensee for a period of one year;

17 (2) for a first conviction under G.S. 113-187(d)(1), the Fisheries Director shall suspend all licenses
18 issued to the licensee for a period of one year; for a second or subsequent conviction under G.S.
19 113-187(d)(1), the Fisheries Director shall revoke all licenses issued to the licensee;

20 (3) for a conviction under G.S. 14-72, 113-208, 113-209, 113-268, or 113-269, the Fisheries Director
21 shall revoke all licenses issued to the licensee; and

22 (4) for a conviction under G.S. 14-32 or 14-33, if the offense was committed against a marine fisheries
23 inspector, the Fisheries Director shall revoke all licenses issued to the licensee and the former
24 licensee shall not be eligible to apply for reinstatement of a revoked license or for any additional
25 license authorized in Article 14A, Article 14B, or Article 25A of Chapter 113 for a period of two
26 years.

27 (d) After the Fisheries Director determines that a conviction requires a suspension or revocation of the licenses of a
28 licensee, the Fisheries Director shall cause the licensee to be served with written notice of suspension or revocation.
29 If the licensee is not an individual, the written notice shall be served upon any responsible individual affiliated with
30 the corporation, partnership, or association. The notice of suspension or revocation shall be served by an inspector or
31 other agent of the Department or by certified mail, shall state the ground upon which it is based, and shall take effect
32 immediately upon service. The agent of the Fisheries Director making service shall collect all license certificates and
33 plates and other forms or records relating to the license as directed by the Fisheries Director. Upon service of a notice
34 of suspension or revocation of a license, it shall be unlawful to fail to surrender any license so suspended or revoked.

35 (e) If a license has been suspended, the former licensee shall not be eligible to apply for reissuance of license or for
36 any additional license authorized in Article 14A, Article 14B, or Article 25A of Chapter 113 during the suspension

1 period. Licenses shall be returned to the licensee by the Fisheries Director or the Director's agents at the end of a
2 period of suspension.

3 (f) Where a license has been revoked, the former licensee shall not be eligible to apply for reinstatement of a revoked
4 license or for any additional license authorized in Article 14A, Article 14B and Article 25A of Chapter 113 for a
5 period of one year, except as provided in Subparagraph (c)(4) of this Rule. For a request for reinstatement following
6 revocation, the former licensee shall ~~demonstrate~~ describe in the request ~~that how~~ the licensee will conduct the
7 operations for which the license is sought in ~~accord~~ accordance with all applicable laws and rules, shall submit the
8 request in writing, and shall ~~send~~ mail the request to the Fisheries Director, Division of Marine Fisheries, 3441
9 Arendell Street, P.O. Box 769, Morehead City, NC 28557. Upon the application of an eligible former licensee after
10 revocation, the Fisheries Director may issue one license sought but not another, as necessary to prevent the hazard of
11 recurring violations of the law.

12 (g) ~~A licensee shall not willfully~~ It shall be unlawful to evade the service prescribed in this Rule.

13

14 *History Note: Authority G.S. 113-134; 113-168.1; 113-171; 113-182; 143B-289.52; S.L. ~~2010-145; 2010-145, s.~~*

15

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16

Eff. October 1, 2012;

17

Amended Eff. May 1, 2017;

18

Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).

1 15A NCAC 03O .0203 is readopted as published in 36:07 NCR 489 as follows:

2
3 **15A NCAC 03O .0203 SHELLFISH LEASE APPLICATION PROCESSING**

4 (a) ~~Upon~~ After acceptance of a completed ~~application,~~ shellfish lease application as set forth in Rule .0202 of this
5 ~~Section,~~ the proposed shellfish lease area shall be inspected by agents of the ~~Division.~~ Division of Marine Fisheries.
6 Proposed shellfish lease areas inconsistent with applicable standards contained or referenced in ~~15A NCAC 3O .0204~~
7 Rule .0201 of this Section shall result in the return of ~~applications~~ the application for amendment to remove the
8 inconsistencies. If the boundaries of the proposed shellfish lease area are modified, the stakes identifying such areas
9 shall be relocated accordingly by the ~~applicant.~~ applicant or applicants. The failure of the applicant or applicants to
10 amend ~~applications~~ the application or modify the shellfish lease area identification, when required, within 30 days of
11 notification shall result in denial of ~~such applications.~~ the application.

12 (b) If the initial or amended shellfish lease application is deemed consistent with all applicable requirements, the
13 Secretary or ~~his~~ the Secretary's designee shall notify the applicant and publish notices of intention to lease in
14 accordance with the standards in G.S. 113-202(f).

15 (c) The Secretary shall consider the shellfish lease application, the Division's proposed lease area analysis, and public
16 comments, and may in ~~his~~ the Secretary's discretion lease or decline to lease the proposed lease area or any part thereof.
17 Special conditions may be imposed so that shellfish leases may be issued ~~which~~ that would otherwise be denied.
18 Should an applicant decide not to accept any special condition imposed on the shellfish lease by the Secretary, the
19 application shall be considered denied.

20 (d) ~~Upon~~ After approval of ~~leases~~ a shellfish lease by the Secretary, the applicant or applicants shall mark the ~~shellfish~~
21 ~~bottom~~ leases ~~lease~~ in accordance with Rule .0204 of this Section within 30 days of approval. ~~15A NCAC 3O~~
22 ~~.0204(a)(1), water column leases in accordance with 15A NCAC 3O .0204(a)(2), and shall within 90 days submit to~~
23 ~~the Division acceptable surveys of the areas approved for leasing except that a water column lease which entirely~~
24 ~~covers a shellfish bottom lease or franchise with an accepted survey on file does not require another survey. Such~~
25 ~~surveys shall be made at the expense of applicants and must meet the following standards:~~

26 (1) ~~Surveys and maps shall meet all the requirements of 21 NCAC 56 .1600, Standards of Practice for~~
27 ~~Land Surveying in North Carolina, which is hereby incorporated by reference including subsequent~~
28 ~~amendments and editions. This material is available for inspection and copies may be obtained from~~
29 ~~the Marine Fisheries Division, Marine Fisheries Building, 3441 Arendell St., P.O. Box 769,~~
30 ~~Morehead City, North Carolina 28557, at no cost.~~

31 (2) ~~Maps shall bear the certificate:~~

32 "I _____ certify that this map was (drawn by me) (drawn under my
33 supervision) from (an actual survey made by me) (an actual survey made under my supervision);
34 that the error of closure as calculated by latitudes and departures is 1: _____, that the area
35 is _____ acres. Witness my hand and seal this _____ day of _____ AD
36 _____."
37 _____

1 Surveyor or Engineer

2 ~~(3) The phrase "other appropriate natural monuments or landmarks" in 21 NCAC 56 .1604(e)(9) shall~~
3 ~~include bridges, roads, highways, intersections, publicly maintained aids to navigation, houses and~~
4 ~~other permanent buildings, radio, telephone, TV, and water towers; docks; piers, and bulkheads; but~~
5 ~~does not include stakes marking the boundaries of adjoining leases, points of marsh, junctions of~~
6 ~~streams, or other landmarks which are particularly subject to change through natural processes,~~
7 ~~storms, or the effect of man.~~

8 ~~(4) A written description of the survey suitable for official documents shall be provided with the survey.~~

9 ~~(5) Locations of all corner markers in latitude and longitude shall be provided with the survey and~~
10 ~~presented in an eight digit format. The relative accuracy of the corner marker locations shall be~~
11 ~~equal to or less than two meters. Information on the method of measurement, make and model of~~
12 ~~equipment, and coordinate system used to determine the latitude and longitude shall be included.~~

13 (e) Proposed shellfish bottom lease areas remain public bottom until a lease contract has been executed by the
14 Secretary.

15 (f) Proposed shellfish water column lease areas superjacent to ~~shellfish~~ bottom leases and ~~recognized perpetual~~
16 franchises remain public water until a lease contract has been executed by the Secretary.

17
18 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-206;*
19 *143B-289.52;*
20 *Eff. January 1, 1991;*
21 *Amended Eff. October 1, 2008; March 1, 1994; September 1, 1991;*
22 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03O .0205 is readopted as published in 36:07 NCR 489-490 as follows:

2
3 **15A NCAC 03O .0205 SHELLFISH LEASE RENEWAL**

4 (a) ~~Lease-~~Shellfish lease renewal applications shall be provided to ~~lessees-~~lease holders by the Division of Marine
5 Fisheries as follows:

6 (1) ~~For-~~for a shellfish bottom ~~leases,-~~lease, a renewal ~~applications-~~application shall be provided in
7 January of the year of expiration.

8 (2) ~~For-~~for a shellfish water column ~~leases,-~~lease, a renewal ~~applications-~~application shall be provided
9 at least 90 days prior to ~~the~~ expiration ~~dates-~~ date.

10 (b) ~~Lease-~~A shellfish lease renewal ~~applications-~~application shall be accompanied by ~~management plans meeting a~~
11 Shellfish Lease Management Plan that meets the requirements of ~~15A NCAC 03O .0202(b)-~~Rule .0202 of this Section.
12 The non-refundable filing fee set forth in G.S. 113-202(j) shall accompany each renewal application for a shellfish
13 bottom ~~leases-~~ lease.

14 (c) ~~A survey for renewal leases shall be required at the applicant's expense when the Division determines that the area~~
15 ~~leased to the renewal applicant is inconsistent with the survey on file.~~

16 (c) To be eligible to renew a shellfish lease, persons holding any acres under a shellfish lease or franchise shall meet
17 the requirements established in Rules .0201 and .0204 of this Section and 15A NCAC 03O .0503(a).

18 (d) ~~When-~~If it is determined, after due notice to the ~~lessee,-~~shellfish lease holder and after opportunity for the ~~lessee~~
19 ~~lease holder~~ to be heard, that the ~~lessee-~~lease holder has not complied with the requirements of this Section or that the
20 lease as issued is inconsistent with this Section, the Secretary may decline to renew, at the end of the current terms,
21 any shellfish bottom or water column lease. The ~~lessee-~~shellfish lease holder may appeal the Secretary's decision by
22 initiating filing a petition for a contested case as outlined in 15A NCAC 03P .0102, under G.S. 150B-23.

23 (e) Pursuant to G.S. 113-202(a)(6), the Secretary is not authorized to ~~recommend approval of-~~approve renewal of a
24 shellfish lease in an area ~~closed to shellfishing by reason of pollution-~~designated as polluted by a proclamation issued
25 by the Fisheries Director. Excluded from this requirement are shellfish leases located in conditionally approved waters
26 that have been temporarily closed when the conditions of the written management plan are not met as described in
27 15A NCAC 18A .0905. Shellfish leases partially closed due to pollution must shall be amended to exclude the area
28 closed to shellfishing-shellfish harvest prior to renewal. For purposes of lease renewal determinations, an area shall
29 be considered closed to shellfish harvest by reason of pollution when the area has been classified by the State Health
30 Director as prohibited or has been closed for more than 50 percent of the days during the final four years prior to
31 renewal except shellfish leases in areas which have been closed for more than 50 percent of the days during the final
32 four years prior to renewal and continue to meet established production requirements by sale of shellfish through relay
33 periods or other depuration methods shall not be considered closed due to pollution for renewal purposes.

34 (f) If the Secretary declines to renew a shellfish lease that has been determined to be inconsistent with the standards
35 of this Section, the Secretary, with the agreement of the ~~lessee,-~~lease holder, may issue a renewal lease for all or part
36 of the area previously leased to the ~~lessee-~~lease holder that contains conditions necessary to conform the renewal lease
37 to the requirements of this Section for new leases.

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*History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-206;
143B-289.52;
Eff. January 1, 1991;
Amended Eff. September 1, 2005; May 1, 1997; March 1, 1995; March 1, 1994; October 1, 1992;
September 1, 1991;
Readopted Eff. May 1, 2022.*

1 15A NCAC 03O .0206 is readopted with changes as published in 36:07 NCR 490 as follows:

2
3 **15A NCAC 03O .0206 ~~LEASE PROTEST SHELLFISH LEASE APPLICATION: REQUEST FOR~~**
4 **REVIEW**

5 ~~(a) Should any person object to the granting of any initial or renewal lease, he has the right to protest its issuance~~
6 ~~prior to the granting of the lease by the Secretary. The protestant may file a sworn statement of protest with the~~
7 ~~Division stating the grounds for protest. The Secretary shall notify both the prospective lessee and the protestant upon~~
8 ~~receipt of a protest, and shall conduct such investigation as he deems necessary, and shall notify both parties of the~~
9 ~~outcome of his investigation. Protestants or applicants receiving an adverse recommendation on the lease application~~
10 ~~from the Secretary may appeal this decision as outlined in G.S. 113-202(g).~~

11 ~~(b)(a) Any member of the public shall be allowed an opportunity to comment on any shellfish lease application during~~
12 ~~the public comment period and subsequent public hearing at which the lease application is being considered by the~~
13 ~~Secretary. Secretary as set forth in G.S. 113-202.~~

14 ~~(b) Procedures for how an applicant or a person other than the applicant who is aggrieved may proceed with a~~
15 ~~contested case based on dissatisfaction of the Secretary's decision on a shellfish lease application are provided in G.S.~~
16 ~~113-202(g). Additionally, a person other than the applicant who is aggrieved may submit a request for a determination~~
17 ~~of the appropriateness of a contested case hearing. The request and any supporting documentation for the basis of the~~
18 ~~aggrieved person seeking to commence a contested case shall be submitted within 30 days after the disputed decision~~
19 ~~is made to the Shellfish Cultivation Lease Review Committee and addressed to the Marine Fisheries Commission~~
20 ~~Office, Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557. The request~~
21 ~~shall be submitted on a form provided by the Division.~~

22 ~~(c) The Shellfish Lease Review Committee shall notify the aggrieved person of the date of the public meeting for the~~
23 ~~Committee to consider the request no later than seven calendar days before the date of the public meeting.~~

24
25 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-289.52; **143B-289.57**;*
26 *Eff. January 1, 1991;*
27 *Amended Eff. March 1, 1994; September 1, 1991;*
28 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03O .0207 is readopted with changes as published in 36:07 NCR 490 as follows:

2
3 **15A NCAC 03O .0207 SHELLFISH LEASE AND FRANCHISE PRODUCTION REPORTS**

4 (a) ~~The owners of shellfish leases and franchises. The holder or holders of a shellfish lease or franchise shall provide~~
5 an annual production reports report to the Division of Marine Fisheries by March 31 of each year showing the amounts
6 of material ~~planted~~ planted, purchased, and ~~harvested~~ harvested; where and when the material was obtained; and when
7 the material was planted ~~in connection with management for commercial production. Reporting forms will be~~
8 ~~provided to owners of shellfish bottom leases and recognized franchises during the period that annual notices of rent~~
9 ~~due are provided to owners of shellfish bottom leases in accordance with G.S. 113-202(j). Reporting forms will be~~
10 ~~provided to owners of water column leases prior to each annual anniversary date in accordance with Rules .0201 and~~
11 ~~.0202 of this Section. The report shall include supporting documentation with evidence of purchased seed in~~
12 accordance with Rule .0201 of this Section.

13 (b) ~~The Division shall provide reporting forms annually to each shellfish lease or franchise holder to be used for the~~
14 annual production report.

15 (b)(c) ~~Failure to furnish by the holder or holders of the shellfish lease or franchise to submit the required annual~~
16 ~~production report, correct and in detail requested, report with all required fields completed, or filing an incomplete~~
17 report or ~~a report containing false information, can constitute information constitutes grounds for~~
18 termination. ~~termination as set forth in Rule .0208 of this Section.~~

19
20 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-206;*
21 *143B-289.52;*
22 *Eff. January 1, 1991;*
23 *Amended Eff. September 1, 1991;*
24 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03O .0208 is readopted as published in 36:07 NCR 491 as follows:

2
3 **15A NCAC 03O .0208 ~~TERMINATION OF PROCEDURES FOR SHELLFISH BOTTOM LEASES AND~~**
4 **~~FRANCHISES AND WATER COLUMN LEASES~~**

5 (a) ~~Procedures for termination of shellfish leaseholds, leases and franchises are provided in G.S. 113-202. An appeal~~
6 ~~of the Secretary's decision to terminate a leasehold is governed by G.S. 150B-23.~~

7 (b) ~~Substantial breach of compliance with the provisions of rules of the Marine Fisheries Commission governing use~~
8 ~~of the leasehold includes the following, except as provided in Paragraph (c) of this Rule:~~

- 9 (1) ~~failure to meet shellfish production and marketing requirements for bottom leases or franchises in~~
10 ~~accordance with Rule .0201 of this Section;~~
- 11 (2) ~~failure to maintain a planting effort of cultch or seed shellfish for bottom leases or franchises in~~
12 ~~accordance with Rule .0201 of this Section;~~
- 13 (3) ~~failure either to meet shellfish production and marketing requirements or to maintain a planting~~
14 ~~effort of cultch or seed shellfish for water column leases in accordance with Rule .0201 of this~~
15 ~~Section;~~
- 16 (4) ~~the Fisheries Director has cause to believe the holder of private shellfish bottom or franchise rights~~
17 ~~has encroached or usurped the legal rights of the public to access public trust resources in navigable~~
18 ~~waters, in accordance with G.S. 113-205 and Rule .0204 of this Section; and~~
- 19 (5) ~~the Attorney General initiates action for the purpose of vacating or annulling letters patent granted~~
20 ~~by the State, in accordance with G.S. 146-63.~~

21 ~~(c)~~(b) Consistent with G.S. 113-202(11) and G.S. 113-201(b), a ~~leaseholder shellfish lease or franchise holder~~ that
22 failed to meet the requirements in G.S. 113-202, G.S. 113-202.1, G.S. 113-202.2, Rule .0201 or the rules of this
23 Section or this Rule that govern a determination of failure to utilize the lease on a continuing basis for the commercial
24 production of shellfish may be granted a single extension period of no more than two years per contract period upon
25 a showing of hardship by written notice to the Fisheries Director ~~his or her~~ or the Fisheries Director's designee received
26 prior to the expiration of the lease term that documents one of the following occurrences caused or will cause the
27 ~~leaseholder lease or franchise holder~~ to fail to meet lease requirements:

- 28 (1) ~~death, illness, or incapacity of the leaseholder shellfish lease or franchise holder or his the holder's~~
29 ~~immediate family as defined in G.S. 113-168 that prevented or will prevent the leaseholder lease or~~
30 ~~franchise holder from working the lease;~~
- 31 (2) ~~damage to the shellfish lease or franchise from hurricanes, tropical storms, or other severe weather~~
32 ~~events recognized by the National Weather Service;~~
- 33 (3) ~~shellfish mortality caused by disease, natural predators, or parasites; or~~
- 34 (4) ~~damage to the shellfish lease or franchise from a manmade disaster that triggers a state emergency~~
35 ~~declaration or federal emergency declaration.~~

36 ~~(d)~~(c) In the case of hardship as described in Paragraph (b) of this Rule, the notice shall state the shellfish lease or
37 franchise number. In the case of hardship as described in Subparagraph ~~(c)~~(1)-(b)(1) of this Rule, the notice shall also

1 state the name of the ~~leaseholder~~ shellfish lease or franchise holder or immediate family member and either the date
2 of death or the date ~~and nature~~ of the illness or incapacity. The Fisheries Director may require a doctor's verification
3 that the illness or incapacity occurred. In the case of hardship as described in Subparagraphs (b)(2) through (b)(4) of
4 this Rule, the notice shall also include documentation of damage to the shellfish lease or franchise. Written notice and
5 supporting documentation shall be addressed to the Director of the Division of Marine Fisheries, 3441 Arendell St.,
6 Street, P.O. Box 769, Morehead City, NC 28557.

7
8 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-205; 113-206;*
9 *143B-289.52;*
10 *Eff. January 1, 1991;*
11 *Amended Eff. May 1, 1997; March 1, 1995; March 1, 1994; October 1, 1992; September 1, 1991;*
12 *Temporary Amendment Eff. January 1, 2002; October 1, 2001;*
13 *Amended Eff. May 1, 2017; April 1, 2003;*
14 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03O .0209 is readopted with changes as published in 36:07 NCR 491-492 as follows:

2
3 **15A NCAC 03O .0209 ~~TRANSFER OF INTEREST~~ ASSIGNMENT OF SHELLFISH LEASES AND**
4 **FRANCHISES**

5 (a) For the purpose of effecting assignments of shellfish leases or franchises in accordance with this Rule:

6 (1) "transfer" shall be defined as any permanent assignment of a shellfish lease or franchise, in whole
7 or in part.

8 (2) "sublease" shall be defined as any temporary assignment of a shellfish lease or franchise, in whole
9 or in part.

10 ~~(a) Within 30 days after transfer of ownership of all or any portion of interest in a shellfish lease or franchise, the new~~
11 ~~owner shall notify the Division, and provide the number of the lease or franchise and the county in which it is located.~~
12 ~~Such notification shall be accompanied by a management plan prepared by the new owner in accordance with 15A~~
13 ~~NCAC 03O .0202(b).~~

14 (b) No transfer or sublease of a shellfish lease or franchise, in whole or in part, shall be valid until notice is provided
15 to the Division of Marine Fisheries as provided in Article 16 of Chapter 113 of the North Carolina General Statutes
16 and the Division provides written consent in order to ensure that a transferee or sub-lessee meets the requirements of
17 the North Carolina General Statutes and Marine Fisheries Commission Rules. A transfer may only be made by the use
18 of a form provided and approved by the Division.

19 (c) Notice to transfer or sublease a shellfish lease or franchise shall ~~include the shellfish lease or franchise number,~~
20 ~~county in which the lease or franchise is located, and the name of the transferee or sub-lessee.~~ include:

21 (1) shellfish lease or franchise number;

22 (2) date of transfer or sublease;

23 (3) name and city of shellfish lease or franchise holder;

24 (4) name and address of transferee or sub-lessee;

25 (5) waterbody and county of shellfish lease or franchise being transferred or subleased;

26 (6) area description and total acres of shellfish lease or franchise or portion of shellfish lease or franchise
27 being transferred or subleased; and

28 (7) end date for a sublease.

29 The transferee or sub-lessee of a shellfish lease shall provide to the Division the required Shellfish Lease Management
30 Plan and proof of completion of training requirements in accordance with Rule .0202 of this Section.

31 ~~(b)(d) If the new owner obtains a~~ The smallest portion of an existing shellfish bottom lease or franchise, it shall not
32 contain less than franchise to be transferred or subleased shall be one-half acre acre, and the required notification to
33 the Division shall be accompanied by a survey prepared in accordance with the standards in 15A NCAC 03O .0203(d).

34 ~~(e) Within six months after transfer of ownership, the new owner shall complete shellfish cultivation lease training~~
35 ~~as specified in 15A NCAC 03O .0202(d).~~

36 (e) A shellfish lease or franchise shall not be transferred or subleased to a nonresident of North Carolina in accordance
37 with G.S. 113-202, G.S. 113-202.1, G.S. 113-202.2, and G.S. 113-206.

1 ~~(d)(f) Water column leases are not transferrable except when the Secretary approves such transfer. A shellfish water~~
2 ~~column lease shall only be transferred~~ in accordance with G.S. 113-202.1(f) and G.S. 113-202.2(f).

3 ~~(e) In the event the transferee involved in a lease is a nonresident, the Secretary must initiate termination proceedings.~~

4

5 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-205; 113-206;*
6 *143B-289.52;*

7 *Eff. January 1, 1991;*

8 *Amended Eff. April 1, 2011; March 1, 1994; September 1, 1991;*

9 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03O .0210 is readopted with changes as published in 36:07 NCR 492 as follows:

2
3 **15A NCAC 03O .0210 STANDARDS AND REQUIREMENTS FOR SHELLFISH-FRANCHISES**

4 ~~(a) The resolution of claims filed under G.S. 113-205 is governed by standards in Departmental Rules 15A NCAC~~
5 ~~1G .0200 and .0300. Following receipt of notification that a claim has a valid chain of title, the owner shall provide~~
6 ~~to the Division within 90 days a survey prepared in accordance with the standards in 15A NCAC 03O .0203(d). Failure~~
7 ~~to provide the required survey within the time period specified will result in denial of the claim.~~

8 ~~(b)(a) Acceptable management plans, Shellfish Management Plans, prepared in accordance with the standards in 15A~~
9 ~~NCAC 03O .0202(b), Rule .0202 of this Section, shall be provided to the Division of Marine Fisheries within 30 days~~
10 ~~following formal recognition of a valid chain of title and at ten-year intervals thereafter.~~

11 ~~(e)(b) The survey and management plan Shellfish Management Plan requirements in Paragraphs (a) and (b) Paragraph~~
12 ~~(a) of this Rule, Rule and all other requirements and conditions of this Section affecting management of franchises,~~
13 ~~franchises shall apply to all valid shellfish franchises recognized prior to September 1, 1989 franchises.~~

14 ~~(d)(c) Commercial production requirements for franchises shall be identical to that required for shellfish bottom leases~~
15 ~~in 15A NCAC 03O .0201(e) accordance with Rules .0201 and .0207 of this Section averaged over the most recent~~
16 ~~three-year period after January 1 following the second anniversary of the dates of recognition of claims as valid~~
17 ~~shellfish franchises and continuing throughout the term of management plans Shellfish Management Plans required~~
18 ~~in Paragraph (b)(a) of this Rule. Annual reporting of commercial production shall be submitted upon receipt of forms~~
19 ~~provided by the Division for that purpose.~~

20
21 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.2; 113-205; 113-206; 143B-289.52;*
22 *Eff. January 1, 1991;*
23 *Amended Eff. October 1, 2008; September 1, 1991;*
24 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03O .0211 is readopted as published in 36:07 NCR 492 as follows:

2
3 **15A NCAC 03O .0211 ~~PROTECTION OF PRIVATE SHELLFISH INTEREST~~ FISHING GEAR**
4 **REQUIREMENTS FOR SHELLFISH LEASES AND FRANCHISES**

5 ~~(a) It is~~ shall be unlawful to use any trawl net, long haul seine, swipe net, dredge, or mechanical method for ~~clams or~~
6 ~~oysters shellfish~~ on any shellfish lease or franchise except: unless it has been duly authorized by the Fisheries Director
7 ~~as provided in 15A NCAC 3K .0206 and .0303.~~

8 (1) for a holder of a Permit to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises;

9 or

10 (2) for the purpose of placing and retrieving cages, bags, or other aquaculture gear within any shellfish
11 lease or franchise.

12 (b) Permits to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises shall be issued by the Division
13 of Marine Fisheries in compliance with 15A NCAC 03O .0500.

14
15 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-206; 143B-289.52;*

16 *Eff. October 1, 1992;*

17 *Amended Eff. August 1, 1998;*

18 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03O .0301 is readopted with changes as published in 36:07 NCR 492 as follows:

2

3

SECTION .0300 – RECREATIONAL COMMERCIAL GEAR LICENSES

4

15A NCAC 03O .0301 ELIGIBILITY FOR RECREATIONAL COMMERCIAL GEAR LICENSES

6 (a) It is ~~shall be~~ unlawful for any individual to hold more than one Recreational Commercial Gear License.

7 (b) Recreational Commercial Gear Licenses shall only be issued to individuals.

8

9 *History Note: Filed as a Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent*
10 *rule becomes effective, whichever is sooner;*

11 *Authority G.S. 113-134; ~~113-170.4~~; 113-173; 113-182; ~~113-221~~; 143B-289.52;*

12 *Eff. February 1, 1995;*

13 *Temporary Amendment Eff. July 1, 1999;*

14 *Amended Eff. August 1, 2000;*

15 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03O .0302 is readopted as published in 36:07 NCR 492-493 as follows:

2
3 **15A NCAC 03O .0302 AUTHORIZED GEAR FOR RECREATIONAL COMMERCIAL GEAR**
4 **LICENSES**

5 (a) The following are the only commercial fishing gear authorized (including restrictions) for use under a valid
6 Recreational Commercial Gear License:

- 7 (1) ~~One one~~ seine 30 feet or over in length but not greater than 100 feet with a mesh length less than ~~2~~
8 ~~1/2~~ two and one-half inches when deployed or retrieved without the use of a vessel or any other
9 mechanical methods. A vessel may be used only to transport the seine;
- 10 (2) ~~One one~~ shrimp trawl with a headrope not exceeding 26 feet in length per ~~vessel.vessel~~;
- 11 (3) ~~With with~~ or without a vessel, five eel, fish, shrimp, or crab pots in any combination, except only
12 two pots of the five may be eel pots. Peeler pots are not authorized for recreational purposes;
- 13 (4) ~~One one~~ multiple hook or multiple bait trotline up to 100 feet in length;
- 14 (5) ~~Gill Nets~~; gill nets:
- 15 (A) ~~Not not~~ more than 100 yards of gill nets with a mesh length equal to or greater than ~~2 1/2~~
16 two and one-half inches except as provided in Part (C) of this Subparagraph. Attendance
17 ~~is shall be~~ required at all times;
- 18 (B) ~~Not not~~ more than 100 yards of gill nets with a mesh length equal to or greater than ~~5 1/2~~
19 five and one-half inches except as provided in Part (C) of this Subparagraph. Attendance
20 ~~is shall be~~ required when used from one hour after sunrise through one hour before sunset
21 in ~~internal coastal fishing waters~~ Internal Waters east and north of the Highway 58 Bridge
22 at Emerald Isle and in the Atlantic Ocean east and north of 77° 04.0000' W. Attendance ~~is~~
23 ~~shall be~~ required at all times in ~~internal coastal fishing waters~~ Internal Waters west and
24 south of the Highway 58 Bridge at Emerald Isle and in the Atlantic Ocean west and south
25 of 77° 04.0000' W; ~~and~~
- 26 (C) ~~Not not~~ more than 100 yards of gill net may be used at any one time, except that when two
27 or more Recreational Commercial Gear License holders are on ~~board~~, board a vessel, a
28 maximum of 200 yards may be used from a vessel; ~~and~~
- 29 (D) ~~It is it shall be~~ unlawful to possess ~~aboard on board~~ a vessel more than 100 yards of gill
30 nets with a mesh length less than ~~5 1/2~~ five and one-half inches and more than 100 yards
31 of gill nets with a mesh length equal to or greater than ~~5 1/2~~ five and one-half inches
32 identified as recreational commercial fishing equipment when only one Recreational
33 Commercial Gear License holder is on ~~board~~, board a vessel. It ~~is shall be~~ unlawful to
34 possess ~~aboard on board~~ a vessel more than 200 yards of gill nets with a mesh length less
35 than ~~5 1/2~~ five and one-half inches and more than 200 yards of gill nets with a mesh length
36 equal to or greater than ~~5 1/2~~ five and one-half inches identified as recreational commercial

1 fishing equipment when two or more Recreational Commercial Gear License holders are
2 on ~~board;~~board a vessel;

3 (6) A ~~one~~ hand-operated device generating pulsating electrical current for the taking of catfish in the
4 area described in 15A NCAC 03J .0304;

5 (7) ~~Skimmer-skimmer~~ trawls not exceeding 26 feet in total combined ~~width;~~width; and

6 (8) ~~One~~ one pound net used to take shrimp with each lead 10 feet or less in length and with a minimum
7 lead net mesh of ~~1-1/2~~ one and one-half inches, and enclosures constructed of net mesh of ~~1-1/4~~ one
8 and one-fourth inches or greater and with all dimensions being 36 inches or less. Attendance ~~is shall~~
9 be required at all times and all gear ~~must~~ shall be removed from the water when not being fished.
10 Gear is to be marked and set as specified in 15A NCAC 03J .0501.

11 (b) It ~~is shall be~~ unlawful to use more than the quantity of authorized gear specified in ~~Subparagraphs (a)(1) through~~
12 ~~(a)(8) of Paragraph (a) of this Rule,~~ regardless of the number of individuals ~~aboard~~ on board a vessel possessing a valid
13 Recreational Commercial Gear License.

14 (c) It ~~is shall be~~ unlawful for ~~a person~~ an individual to violate the restrictions of or use gear other than that authorized
15 by Paragraph (a) of this Rule.

16 (d) Unless otherwise provided, this Rule does not exempt Recreational Commercial Gear License holders from the
17 provisions of other applicable rules of the Marine Fisheries Commission or provisions of proclamations issued by the
18 Fisheries Director as authorized by the Marine Fisheries Commission.

19
20 *History Note: Authority G.S. 113-134; 113-173; 113-182; 143B-289.52;*
21 *Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent rule*
22 *becomes effective, whichever is sooner;*
23 *Eff. February 1, 1995;*
24 *Temporary Amendment Eff. August 1, 1999; July 1, 1999;*
25 *Amended Eff. August 1, 2000;*
26 *Temporary Amendment Eff. August 1, 2000;*
27 *Amended Eff. April 1, 2009; July 1, 2006; November 1, 2005; August 1, 2002;*
28 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03O .0303 is readopted with changes as published in 36:07 NCR 493-494 as follows:

2
3 **15A NCAC 03O .0303 POSSESSION LIMITS FOR RECREATIONAL COMMERCIAL GEAR LICENSE**
4 **POSSESSION LIMITS LICENSES**

5 (a) It ~~is~~ shall be unlawful to possess more than a single recreational possession limit when only one ~~person aboard~~
6 individual on board a vessel possesses a valid Recreational Commercial Gear ~~License~~ License, regardless of the
7 number of Recreational Commercial Gear Licenses an individual holds, and recreational commercial fishing
8 equipment as ~~defined~~ described in 15A NCAC 03O Rule .0302(a) of this Section is used, regardless of the number of
9 ~~persons~~ individuals on board a vessel.

10 (b) It ~~is~~ shall be unlawful to possess individual recreational possession limits in excess of the number of individuals
11 ~~aboard~~ on board a vessel holding a valid Recreational Commercial Gear ~~Licenses~~ License except as provided in
12 Paragraph (f) of this Rule.

13 (c) It ~~is~~ shall be unlawful for any ~~person~~ individual who holds both a Recreational Commercial Gear License and a
14 Standard or Retired Standard Commercial Fishing License and who is in possession of identified recreational
15 commercial fishing equipment as ~~defined~~ described in 15A NCAC 03O .0302(a), Rule .0302(a) of this Section to
16 exceed the single recreational possession limit.

17 (d) It ~~is~~ shall be unlawful for ~~persons aboard~~ individuals on board a vessel collectively holding only one Recreational
18 Commercial Gear License and any Standard Commercial Fishing License or Retired Standard Commercial Fishing
19 License and who are in possession of any identified recreational commercial fishing equipment as ~~defined~~ described
20 in 15A NCAC 03O .0302(a), Rule .0302(a) of this Section to exceed ~~one~~ the single recreational possession limit.

21 (e) It ~~is~~ shall be unlawful to possess more than 48 quarts, heads on, or 30 quarts, heads off, of shrimp when only one
22 ~~person aboard~~ individual on board a vessel possesses a valid Recreational Commercial Gear ~~License~~ License,
23 regardless of the number of Recreational Commercial Gear Licenses an individual holds, and recreational commercial
24 fishing equipment as ~~defined~~ described in 15A NCAC 03O Rule .0302(a) of this Section is used.

25 (f) It ~~is~~ shall be unlawful to possess more than 96 quarts, heads ~~on on~~, or 60 quarts, heads off, of shrimp if more than
26 one ~~person aboard~~ individual on board a vessel possesses a valid Recreational Commercial Gear License and
27 recreational commercial fishing equipment as ~~defined~~ described in 15A NCAC 03O Rule .0302(a) of this Section is
28 used.

29
30 *History Note: Authority G.S. 113-134; 113-170.4; 113-173; 113-182; 143B-289.52;*
31 *Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent rule*
32 *becomes effective, whichever is sooner;*
33 *Eff. February 1, 1995;*
34 *Temporary Amendment Eff. June 7, 1998;*
35 *Amended Eff. April 1, 1999;*
36 *Temporary Amendment Eff. July 1, 1999;*
37 *Amended Eff. July 1, 2006; August 1, 2000;*

Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).

1 15A NCAC 03O .0401 is readopted as published in 36:07 NCR 494 as follows:

2

3

SECTION .0400 – STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY

4

15A NCAC 03O .0401 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY BOARD

6 (a) The ~~Chairman~~ Chair of the Marine Fisheries Commission, the Secretary of the Department of ~~Environment and~~
7 ~~Natural Resources~~, Environmental Quality, and the Fisheries Director ~~of the Division of Marine Fisheries~~ may each
8 name a designee and an alternate designee to serve on the Standard Commercial Fishing License Eligibility Board as
9 their representative in their absence.

10 (b) The Standard Commercial Fishing License Eligibility Board shall not review an application for eligibility without
11 a quorum of the Eligibility Board members or designees being present. Two or more members of the Standard
12 Commercial Fishing License Eligibility Board or their designees constitute a quorum.

13

14 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52; S.L. 1998-225, s. 4.24;*
15 *Temporary Adoption Eff. April 1, 1999;*
16 *Eff. August 1, 2000;*
17 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03O .0402 is readopted with changes as published in 36:07 NCR 494 as follows:

2
3 **15A NCAC 03O .0402 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY APPLICATION**
4 **PROCESS**

5 (a) Application forms for determination of eligibility for the Standard Commercial Fishing ~~Licenses~~ License
6 Eligibility Pool ~~shall be~~ are available at all offices of the Division of Marine Fisheries and online at
7 [https://deq.nc.gov/about/divisions/marine-fisheries/licenses-permits-and-leases/commercial-fishing-](https://deq.nc.gov/about/divisions/marine-fisheries/licenses-permits-and-leases/commercial-fishing-licenses/eligibility-pool)
8 [licenses/eligibility-pool](https://deq.nc.gov/about/divisions/marine-fisheries/licenses-permits-and-leases/commercial-fishing-licenses/eligibility-pool) and ~~must~~ shall be submitted to ~~the Morehead City~~ any Office of the Division of Marine
9 Fisheries ~~[Division, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557]~~ for processing.

10 (b) Only one application per individual for determination of eligibility for the Standard Commercial Fishing ~~Licenses~~
11 License Eligibility Pool shall be accepted or may be pending at any one time. An applicant may have only one entry
12 in the ~~eligibility pool~~ Standard Commercial Fishing License Eligibility Pool at any one time.

13 (c) Individuals who currently hold or are eligible to purchase a Standard or Retired Standard Commercial Fishing
14 License shall not be eligible to apply for additional Standard Commercial Fishing Licenses through the Standard
15 Commercial Fishing ~~Licenses~~ License Eligibility Pool.

16 (d) If an applicant has died or becomes ineligible and is subsequently selected from the ~~eligibility pool~~, Standard
17 Commercial Fishing License Eligibility Pool, that license eligibility shall automatically revert to the ~~eligibility~~
18 pool Eligibility Pool.

19 (e) Persons claiming retirement from commercial fishing or transferring their Standard Commercial Fishing License
20 ~~may not apply for pool eligibility~~ shall not be eligible to apply for a Standard Commercial Fishing License through
21 the Standard Commercial Fishing License Eligibility Pool for two years from the date of the last ~~transfer~~ transfer,
22 except as provided in ~~15A NCAC 03O .0404(3)~~ Rule .0404(3) of this Section.

23 (f) Applicants shall notify the Division of Marine Fisheries within 30 days of a change of address.

24
25 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52; S.L. 1998-225, s. 4:24;*
26 *Temporary Adoption Eff. April 1, 1999;*
27 *Eff. August 1, 2000;*
28 *Amended Eff. October 1, 2008; February 1, 2008;*
29 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03O .0403 is readopted as published in 36:07 NCR 494 as follows:

2

3 **15A NCAC 03O .0403 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY BOARD**
4 **REVIEW**

5 (a) After determination of eligibility by the Standard Commercial Fishing License Eligibility Board, applicants will
6 be notified in writing as to the ~~applicant's~~applicant meeting or not meeting required eligibility criteria for the Standard
7 Commercial Fishing License Eligibility Pool.

8 (b) The Marine Fisheries Commission shall determine the number of licenses available from the ~~pool~~Standard
9 Commercial Fishing License Eligibility Pool at ~~their~~its first regularly scheduled meeting following July 1 of each
10 year.

11 (c) The Standard Commercial Fishing License Eligibility Board shall meet to review applications as often as deemed
12 necessary by the ~~Chairman~~Chair of the Eligibility Board.

13

14 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52; S.L. 1998-225, s. 4.24;*

15 *Temporary Adoption Eff. April 1, 1999;*

16 *Eff. August 1, 2000;*

17 *Amended Eff. February 1, 2008;*

18 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03O .0404 is readopted with changes as published in 36:07 NCR 494-495 as follows:

2
3 **15A NCAC 03O .0404 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY CRITERIA**

4 In determining eligibility of an ~~application-applicant~~ for the Standard Commercial Fishing License Eligibility Pool,
5 the Standard Commercial Fishing License Eligibility Board shall apply the following criteria:

6 (1) ~~Involvement in Commercial Fishing:~~involvement in commercial fishing:

- 7 (a) ~~Significant~~significant involvement in the commercial fishing industry for three of the last
8 five years;~~or~~
- 9 (b) ~~Significant~~significant involvement in commercial fishing or in the commercial fishing
10 industry prior to the last five years;~~or~~
- 11 (c) ~~In~~in the case of an applicant who is under 16 years of age, significant involvement in
12 commercial fishing for two out of the last five years with a parent, legal guardian,
13 ~~grandparent~~grandparent, or other adult; or
- 14 (d) ~~Significant~~significant involvement of the applicant's family in commercial fishing. For the
15 purpose of this ~~Sub item~~,Sub-Item, family shall include mother, father, ~~brother~~,sister,
16 ~~brothers~~,sisters, spouse, children, ~~grandparents~~grandparents, or legal guardian.

17 For the purposes of this Rule, ~~significant involvement means~~"significant involvement" shall mean
18 persons or corporations who are engaged in the actual taking of fish for sale, from the waters of the
19 State, or other states, jurisdictions, or federal waters, or any licensed dealer or the dealer's employees
20 who ~~purchases~~purchase fish at the point of landing. Significant involvement does not include
21 activities such as those who transport fish from the point of ~~landing~~,landing, those who sell or make
22 commercial or recreational fishing ~~gear~~,gear, those who operate bait and tackle shops unless they
23 are engaged in the actual taking of bait for ~~sale~~,sale, or those who work in fish markets or crab
24 picking ~~operations~~operations;

25 (2) ~~Compliance with Applicable Laws and Regulations:~~compliance with applicable laws, regulations,
26 and rules:

- 27 (a) ~~The~~the applicant shall not have any licenses, ~~endorsements or commercial fishing vessel~~
28 ~~registrations~~endorsements, or Commercial Fishing Vessel Registrations issued by the
29 Division of Marine Fisheries or the right to hold such them under suspension or revocation
30 at the time of application or during the eligibility review;~~or~~
- 31 (b) ~~If~~if selected for the Standard Commercial Fishing License Eligibility Pool, the applicant
32 shall become ineligible for the Standard Commercial Fishing License Eligibility Pool if
33 any licenses, ~~endorsements or registrations~~endorsements, or Commercial Fishing Vessel
34 Registrations or the right to hold such them issued by the Division of Marine Fisheries are
35 suspended or revoked;~~or~~
- 36 (c) ~~Four~~four convictions within the last three years or the number of convictions ~~which~~that
37 would cause suspension or revocation of ~~license, endorsement, or registration~~licenses.

1 endorsements, or Commercial Fishing Vessel Registrations as set forth in Rule .0114 of
2 this Subchapter within the last three years shall result in the application being ~~denied;~~
3 ~~or~~denied. An applicant for the Standard Commercial Fishing License Eligibility Pool shall
4 provide certification that the applicant does not have four or more marine or estuarine
5 resource convictions during the previous three ~~[years;]~~years, as set forth in Rule .0101 of
6 this Subchapter; and

- 7 (d) ~~A~~a record of habitual violations evidenced by eight or more convictions in the last 10 years
8 shall result in the application being denied.

9 For purposes of eligibility for the Standard Commercial Fishing License Eligibility Pool, the term
10 convictions shall include ~~but not be limited to~~any conviction for violation of any provision of
11 Chapter 113 of the North Carolina General Statutes and any rule implementing or authorized by
12 such ~~statutes; statutes,~~any conviction for violation of G.S. 76-40 and any rule implementing or
13 authorized by such ~~statute; statute,~~any conviction of Chapter 75A of the North Carolina General
14 Statutes and any rule implementing or authorized by such ~~statutes; statutes,~~any conviction for
15 violation of any provision of Article 7 of Chapter 143B of the North Carolina General Statutes and
16 any rule implementing or authorized by such ~~statutes; statutes,~~any conviction of resist, obstruct, or
17 delay involving a ~~Marine Patrol Officer or Wildlife Officer~~Marine Fisheries Inspector or Wildlife
18 Protector under G.S. ~~14-223; 14-223,~~ and any conviction involving assaultive behavior toward a
19 ~~Marine Patrol Officer~~Marine Fisheries Inspector or other governmental official of the Department
20 of ~~Environment and Natural Resources~~Environmental Quality or the Wildlife Resources
21 Commission.Commission;

22 Applicants for the Standard Commercial Fishing License Eligibility Pool must provide certification
23 that the applicant does not have four or more marine or estuarine resource violations during the
24 previous three years.

- 25 (3) ~~The~~the responsible party applicant shall not have transferred a Standard Commercial Fishing
26 License granted by the Standard Commercial Fishing License Eligibility Board.~~Board; and~~
27 (4) ~~All applicants~~an applicant for the Standard Commercial Fishing License Eligibility Pool ~~must~~shall
28 meet all other statutory eligibility requirements for ~~the~~a Standard Commercial Fishing License.

29
30 *History Note: Authority G.S. 113-134; 113-168.1; 113-168.2; 113-182; 143B-289.52; S.L. 1998-225, s. 4.24;*
31 *Temporary Adoption Eff. April 1, 1999;*
32 *Eff. August 1, 2000;*
33 *Amended Eff. October 1, 2008; February 1, 2008;*
34 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03O .0405 is readopted with changes as published in 36:07 NCR 495-496 as follows:

2
3 **15A NCAC 03O .0405 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY POOL**
4 **APPLICATION DOCUMENTATION**

5 **(a) The Standard Commercial Fishing License Eligibility Pool application form required by Rule .0402 of this Section**
6 **to be submitted to the Division of Marine Fisheries shall include the following items for the applicant:**

- 7 **(1) participant identification number;**
8 **(2) full name;**
9 **(3) if applying as a business:**
10 **(A) business name;**
11 **(B) state of incorporation;**
12 **(C) charter state;**
13 **(D) full name of business owner;**
14 **(E) full names of business agents, if applicable; and**
15 **(F) type of business entity, either corporation, partnership, sole proprietorship, or limited**
16 **liability company;**
17 **(4) type of picture identification used to verify the applicant's identify, either state driver's license, state**
18 **identification card issued by the Division of Motor Vehicles, military identification card, resident**
19 **alien card, or passport, and identification number and identification expiration date;**
20 **(5) date of birth;**
21 **(6) state of primary residence;**
22 **(7) e-mail address, if applicable;**
23 **(8) physical address;**
24 **(9) mailing address;**
25 **(10) home phone number, business phone number, fax number, and cellular phone number, if applicable;**
26 **and**
27 **(11) race, gender, height, weight, eye color, and hair color.**

28 **If applying as a business, the business agent's information is required for Subparagraphs (a)(2) and (a)(4) through**
29 **(a)(11).**

30 **~~(a)~~ (b) Documentation for ~~applications~~ applications for determination of eligibility for the Standard Commercial**
31 **Fishing License Eligibility Pool shall include:**

- 32 (1) ~~Statements~~ statements from individuals verifying the ~~applicant's involvement must~~ applicant's
33 involvement in commercial fishing or the commercial fishing industry, which shall contain the
34 individual's individual's name, address address, and telephone number number, and must be
35 notarized the individual's signature shall be notarized;
36 (2) ~~Proof~~ proof of income derived from commercial fishing or the commercial fishing industry. Proof
37 of this income shall be tax ~~records~~ records; and

1 (3) ~~The~~the extent to which the applicant has complied with federal and state laws, regulations, and
2 rules relating to coastal fishing and protection of the environment. Federal compliance will be
3 verified by a notarized statement from the applicant that ~~he~~the applicant has complied with federal
4 ~~laws.~~laws, as set forth in Rule .0101 of this Subchapter.

5 (4)~~(b)~~(c) All documents required by this Rule ~~must~~shall be notarized.

6 (5)~~(e)~~(d) (c) Applications shall be legible and complete or they will be returned.

7 (6)~~(d)~~(e) It ~~is~~shall be unlawful to submit false statements on applications or supporting documents. If eligibility is
8 based on false information provided by the applicant, this eligibility ~~is~~shall be automatically revoked.

9

10 *History Note:* *Authority G.S. 113-134; 113-182; 143B-289.52; S.L. 1998-225, s. 4.24;*

11 *Temporary Adoption Eff. April 1, 1999;*

12 *Eff. August 1, 2000;*

13 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03O .0406 is readopted as published in 36:07 NCR 496 as follows:

2
3 **15A NCAC 03O .0406 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY POOL**
4 **CERTIFICATION**

5 Annual certification to maintain an eligible application in the Standard Commercial Fishing License Eligibility Pool
6 shall be as follows:

- 7 (1) ~~The~~the applicant shall certify that the information on ~~his~~the applicant's original application is
8 correct and that ~~he~~the applicant desires to remain in the Standard Commercial Fishing License
9 Eligibility Pool. A certification form shall be provided and mailed to the applicant at the last known
10 address by the Division of Marine Fisheries;
- 11 (2) ~~A certification form shall be provided and mailed to the applicant at the last known address by the~~
12 ~~Division.~~
- 13 (3)(2) ~~This certification,~~the certification form with any ~~changes~~changes, such as address, phone number,
14 or updated fisheries involvement information since the last application or ~~certification~~must
15 certification, shall be notarized and submitted to the Division within 12 months of the initial
16 application and annually ~~thereafter~~thereafter; and
- 17 (4)(3) ~~Failure~~failure to return certification that an application is correct or with changes within 30 days
18 from when the Division mailed the form to the applicant shall result in the application being ~~deleted~~
19 removed from the Standard Commercial Fishing License Eligibility Pool. An applicant that has been
20 removed from the Standard Commercial Fishing License Eligibility Pool shall receive a notice from
21 the Division.
- 22 (5) ~~An applicant that has been deleted from the Standard Commercial Fishing License Eligibility Pool~~
23 ~~shall receive a notice from the Division.~~

24
25 *History Note:* Authority G.S. 113-134; 113-182; 143B-289.52; S.L. 1998-225, s. 4.24;
26 *Temporary Adoption Eff. April 1, 1999;*
27 *Eff. August 1, 2000;*
28 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03O .0502 is readopted with changes as published in 36:07 NCR 496-497 as follows:

2
3 **15A NCAC 03O .0502 PERMIT CONDITIONS; GENERAL PERMIT CONDITIONS**

4 (a) It shall be unlawful to violate any permit condition.

5 (b) The following conditions shall apply to all permits issued by the Fisheries Director:

6 (1) ~~it is unlawful to~~ it shall be unlawful to:

7 (A) operate under the permit except in areas, at times, and under conditions specified on the
8 ~~permit; permit.~~

9 (2)(B) ~~it is unlawful to~~ operate under a permit without having the permit or copy thereof in
10 possession of the permittee or ~~his or her~~ the permittee's designees at all times of operation
11 and the permit or copy thereof shall be ready at hand for inspection, except for a Pound
12 Net ~~Permits; Set Permit.~~

13 (3)(C) ~~it is unlawful to~~ operate under a permit without having a current [valid] picture
14 identification in possession and ready at hand for ~~inspection; inspection.~~

15 (4)(D) ~~it is unlawful to~~ refuse to allow inspection and sampling of a permitted activity by an agent
16 of the ~~Division; Division of Marine Fisheries.~~

17 (5)(E) ~~it is unlawful to~~ fail to provide complete and accurate information requested by the
18 Division in connection with the permitted ~~activity; activity.~~

19 (F) provide false information in the application for initial issuance, renewal, or transfer of a
20 permit.

21 (6)(G) ~~it is unlawful to~~ hold a permit issued by the Fisheries Director ~~when~~ if not eligible to hold
22 any license required as a condition for that permit as stated in 15A NCAC 03O .0501; Rule
23 .0501 of this Section.

24 (7)(H) ~~it is unlawful to~~ fail to provide reports within the timeframe required by the specific permit
25 ~~conditions; conditions.~~

26 (8)(I) ~~it is unlawful to~~ fail to keep such records and accounts as required by the rules in this
27 Chapter for determination of conservation policy, equitable and efficient administration
28 and enforcement, or promotion of commercial or recreational ~~fisheries; fisheries.~~

29 (9)(J) ~~it is unlawful to~~ assign or transfer permits issued by the Fisheries Director, except for a
30 Pound Net ~~Permits Set Permit~~ as authorized by 15A NCAC 03J .0504; .0504.

31 (10)(2) the Fisheries ~~Director; Director or his agent; the Fisheries Director's agent~~ may, by conditions of the
32 permit, ~~specify impose~~ on a commercial fishing operation and for recreational purposes any ~~or all~~
33 of the following restrictions for the permitted purposes:

34 (a) species;

35 (b) quantity or size;

36 (c) time period;

37 (e) location;

- 1 ~~(d)~~ — means and methods;
- 2 ~~(f)~~ — disposition of resources;
- 3 ~~(g)~~ — marking requirements; or
- 4 ~~(h)~~ — harvest conditions.
- 5 (A) specify time;
- 6 (B) specify area;
- 7 (C) specify means and methods;
- 8 ~~(D)~~ — specify requirements for a commercial fishing operation or for recreational purposes;
- 9 ~~(E)~~~~(D)~~ specify record keeping and reporting requirements;
- 10 ~~(F)~~~~(E)~~ specify season;
- 11 ~~(G)~~~~(F)~~ specify species;
- 12 ~~(H)~~~~(G)~~ specify size;
- 13 ~~(I)~~~~(H)~~ specify quantity;
- 14 ~~(J)~~~~(I)~~ specify disposition of resources;
- 15 ~~(K)~~~~(J)~~ specify marking requirements; and
- 16 ~~(L)~~~~(K)~~ specify harvest conditions.

17 ~~(11)~~(3) unless specifically stated as a condition on the permit, all statutes, ~~rules~~rules, and proclamations
18 shall apply to the permittee and ~~his or her designees; and the permittee's designees.~~

19 ~~(12)~~ as a condition of accepting the permit from the Fisheries Director, the permittee agrees to abide by
20 all conditions of the permit and agrees that if specific conditions of the permit, as identified on the
21 permit, are violated or if false information was provided in the application for initial issuance,
22 renewal or transfer, the permit may be suspended or revoked by the Fisheries Director.

24 History Note: Authority G.S. 113-134; 113-169.1; 113-170.2; 113-170.3; 113-182; 113-210; 143B-289.52;
25 Temporary Adoption Eff. May 1, 2000;
26 Eff. April 1, 2001;
27 Amended Eff. April 1, 2009; September 1, 2005;
28 Redopted Eff. (Pending legislative review pursuant to S.L. 2019-198).

1 15A NCAC 03O .0504 is readopted with changes as published in 36:07 NCR 497-498 as follows:

2
3 **15A NCAC 03O .0504 ~~SUSPENSION/REVOCATION~~ SUSPENSION AND REVOCATION OF PERMITS**

4 (a) All commercial and recreational permits issued under Article 14A, Article 14B, and Article 25A of Chapter 113,
5 and rules of the Marine Fisheries Commission shall be subject to suspension and revocation. For the purpose of this
6 Rule and in accordance with G.S. 150B-2, "permit" includes "certification" and "certificate of compliance".

7 (b) If a license is required to hold a permit:

8 (1) all permits shall be suspended or revoked if the permittee's license privilege has been suspended or
9 revoked as set forth in G.S. 113-171 and Rule .0114 of this Subchapter. The duration of the permit
10 suspension or revocation shall be the same as the license suspension or revocation.

11 (2) in the event a person makes application for a new permit during any period of license or permit
12 suspension, no new permit shall be issued during the suspension period.

13 (3) in the case of revocation of license privileges, the former licensee shall not be eligible to apply for
14 reinstatement of a revoked [permit.] **permit while license privileges are revoked.**

15 (c) If a license is not required to hold a permit, in the case of revocation of a permit, the former permittee shall not be
16 eligible to apply for reinstatement of a revoked permit for a period of six months.

17 ~~(a)~~(d) It shall be unlawful to violate any permit condition. For violation of ~~specific~~ permit conditions **(as-as** specified
18 on the **permit),-permit,** permits may be suspended or revoked according to the following schedule:

19 (1) violation of one ~~specific~~ permit condition in a ~~three year~~ three-year period, permit shall be suspended
20 for 10 ~~days;~~ days.

21 (2) violation of two ~~specific~~ permit conditions in a ~~three year~~ three-year period, permits shall be
22 suspended for 30 ~~days;~~ days.

23 (3) violation of three ~~specific~~ permit conditions in a ~~three year~~ three-year period, permits shall be
24 revoked for a period not less than six months.

25 (4) violation of any permit conditions as set forth in 15A NCAC 03J .0505(a), permits may be revoked
26 and the former permittee may not be eligible to apply for any future Pound Net Set Permits.

27 If several permit conditions are violated as a result of a single transaction or occurrence, the permit violations shall be
28 treated as a single violation for the purpose of suspension or revocation. ~~If the permit condition violated is the refusal~~
29 to provide information upon request by Division staff, either by telephone, in writing or in person, the Fisheries
30 Director may suspend the permit. Such permit may be reinstated 10 days after the requested information is provided.

31 ~~(b)~~ All permits will be suspended or revoked when the permittee's license privilege has been suspended or revoked
32 as set out in G.S. 113-171. The duration of the suspension or revocation shall be the same as the license suspension
33 or revocation. ~~In the event the person makes application for a new permit during any period of license suspension, no~~
34 new permit will be issued during the suspension period. ~~In case of revocation of license privileges, the minimum~~
35 waiting period before application for a new permit to be considered will be six months.

36 ~~(e)~~(e) Permit designees shall not be permitted to participate in a permit operation during any period they are under
37 license suspension or revocation.

1 (f) If violation of permit conditions requires suspension or revocation of a permit, the Fisheries Director shall cause
2 the permittee to be served with written notice of the intent to commence suspension or revocation. If the permittee is
3 not an individual, the written notice shall be served upon any responsible individual affiliated with the corporation,
4 partnership, or association. The notice of the intent to commence suspension or revocation shall be served by an
5 inspector or other agent of the Department or by certified mail, and shall state the grounds upon which it is based.

6 (g) The Fisheries Director shall order summary suspension of a permit if ~~it~~ he or she finds that the public health,
7 safety, or welfare requires emergency action. Upon such determination, the Fisheries Director shall issue an order
8 giving the reasons for the emergency action. The effective date of the order shall be the date specified on the order or
9 the date of service of a certified copy of the order at the last known address of the permittee, whichever is later.

10 ~~(d)(h)~~ Upon service of a notice of suspension or revocation of a permit, it is shall be unlawful to fail to surrender any
11 permit so suspended or revoked.

12 (i) It shall be unlawful to fail to surrender a permit issued by the Division in error immediately upon service of a
13 notice by an agent of the Fisheries Director to surrender the permit.

14 ~~(j) It shall be unlawful to evade the service prescribed in this Rule.~~

15 ~~(k)~~ (j) It shall be unlawful to fail to remove all gear, markers, and devices associated with an Aquaculture Operation
16 Permit within 30 days after expiration of the Aquaculture Operation Permit, termination of a shellfish lease for which
17 the Aquaculture Operation Permit was issued, or notice by the Fisheries Director that an existing Aquaculture
18 Operation Permit has been revoked or denied. Similar requirements for gear removal for a Pound Net Set Permit are
19 described in 15A NCAC 03J .0505.

20
21 *History Note: Authority G.S. 113-134; 113-171; 113-182; 113-202; 113-221.2; 143B-289.52; 150B-3; S.L. 2010-*
22 *145;*
23 *Temporary Adoption Eff. May 1, 2000;*
24 *Eff. April 1, 2001;*
25 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03P .0101 is readopted with changes as published in 36:07 NCR 498 as follows:

2
3 **SUBCHAPTER 03P - ~~HEARING~~ ADMINISTRATIVE PROCEDURES**

4
5 **SECTION .0100 - HEARING PROCEDURES**

6
7 **15A NCAC 03P .0101 LICENSE, PERMIT, OR CERTIFICATE DENIAL: REQUEST FOR REVIEW**

8 (a) Except in cases where summary suspension is applicable, before the Division of Marine Fisheries may commence
9 proceedings for suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of a license, notice
10 shall be given to the license holder that the license holder may file a petition for a contested case in accordance with
11 G.S. 113-171(e) and may request a final agency decision in accordance with G.S. 113-171(f).

12 ~~(a)(b)~~ For the purpose of this Rule and in accordance with G.S. 150B-2, "license"-"permit" includes "permit" as well
13 as "certification" and "certificate of compliance."

14 ~~(b)(c)~~ Except in cases where G.S. ~~113-171~~ 113-171, 15A NCAC 03O .0114, or summary suspension is applicable,
15 before the Division may commence proceedings for suspension, revocation, annulment, withdrawal, recall,
16 cancellation, or amendment of a ~~license, permit,~~ notice shall be given to the ~~license holder that~~ permittee that the
17 permittee:

18 (1) may request an opportunity to show compliance with all requirements for retention of the permit by
19 submitting a statement in writing to the personnel designated in the notice to commence
20 proceedings; and

21 ~~(1)(2)~~ the license holder has a the right, through filing a request for a contested case hearing in the Office
22 of Administrative Hearings, to a hearing before an administrative law judge, judge and a final agency
23 decision by the Marine Fisheries Commission; and

24 (2) the license holder may request an opportunity to show compliance with all requirements for
25 retention of the license by submitting a statement in writing to the personnel designated in the notice
26 to commence proceedings.

27 ~~(e)(d)~~ For a permit related to endangered or threatened species or a species managed by a quota, any statements
28 submitted by the permittee to show compliance with all requirements for retention of the permit shall be postmarked
29 or emailed within five days of receipt of the notice to commence proceedings. For all other permits, any Any
30 statements submitted by the license holder permittee to show compliance with all requirements for retention of the
31 license permit shall be postmarked or emailed within 15-10 days of receipt of the notice to commence [proceedings.
32][proceedings, except for a permit related to endangered or threatened species or a species managed by a quota, any
33 statements to show compliance shall be postmarked or emailed within five days of receipt of the notice to commence
34 proceedings.] Statements and any supporting documentation shall be addressed to the personnel designated in the
35 notice and ~~mailed if mailed,~~ sent to the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead
36 City, NC ~~28557~~ 28557, or if emailed, sent to the email address provided in the notice for the designated personnel.

1 ~~(d)~~(e) Upon receipt of a statement and any supporting documentation from the ~~license holder, permittee,~~ the Division
2 shall review the statement and, within ~~15-10~~ days, shall notify the ~~license holder permittee~~ in writing with the
3 Division's determination whether the ~~license holder permittee~~ demonstrated compliance with all requirements for
4 retention of the ~~license permit.~~ In making this determination, the Division may consider **criteria including material**
5 changes **the permittee** made enabling the ~~license holder permittee~~ to conduct the operations for which the ~~license~~
6 ~~permit~~ is held in ~~accord~~ accordance with all applicable laws and ~~rules~~ rules, and processing errors made by the
7 Division.

8 ~~(e) The Division shall order summary suspension of a license if it finds that the public health, safety, or welfare~~
9 ~~requires emergency action. Upon such determination, the Fisheries Director shall issue an order giving the reasons for~~
10 ~~the emergency action. The effective date of the order shall be the date specified on the order or the date of service of~~
11 ~~a certified copy of the order at the last known address of the license holder, whichever is later.~~

12
13 *History Note: Authority G.S. 113-134; 113-171; 113-182; 113-221.2; 143B-289.52; 150B-3; 150B-23;*
14 *Eff. January 1, 1991;*
15 *Amended Eff. May 1, 2017; August 1, 1999;*
16 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03R .0110 is amended as published in 36:07 NCR 502-508 as follows:

2
3 **15A NCAC 03R .0110 CRAB SPAWNING SANCTUARIES**

4 The crab spawning sanctuaries ~~within which the taking of crabs may be restricted or prohibited are described as~~
5 ~~follows:~~ referenced in 15A NCAC 03L .0205 are delineated in the following coastal fishing waters:

6 (1) in Areas from Barden Inlet and North:

7 ~~(1)(a) In in the Oregon Inlet Area. Beginning Area: beginning~~ at a point on the Atlantic Ocean
8 shore of Bodie Island 35° 47.7054' N - 75° 32.3522' W; running northeasterly to a point in
9 the Atlantic Ocean 35° 47.9833' N - 75° 31.8500' W; running southerly to a point in the
10 ocean 35° 46.3500' N - 75° 30.6666' W; running westerly to a point on the Atlantic Ocean
11 shore at 35° 46.1037' N - 75° 31.2785' W; running northerly along the Atlantic shore of
12 Pea Island to and around South Point and continuing southerly along the shore of Pamlico
13 Sound to a point on the south point of Eagle Nest Bay at 35° 43.7085' N - 75° 30.8009' W;
14 running westerly to a point in Pamlico Sound at 35° 43.7100' N - 75° 32.2113' W; running
15 northerly to a point 35° 47.3992' N - 75° 34.1650' W in Pamlico Sound; running northerly
16 to a point on Bodie Island ~~35° 48.5740' N - 75° 33.8722' W;~~ 35° 48.7740' N - 75° 33.8722'
17 W; running southerly along the shore to and around North Point at Oregon Inlet and then
18 northerly on the Atlantic shore to the point of beginning;

19 ~~(2)(b) In in the Hatteras Inlet Area. Beginning Area: beginning~~ at a point on the Pamlico Sound
20 shoreline of Hatteras Island 35° 12.0846' N - 75° 43.3514' W; running northwesterly to a
21 point in Pamlico Sound 35° 13.6361' N - 75° 45.4451' W; running southwestly to a point
22 near Outer Green Island 35° 11.0794' N - 75° 48.4440' W; running southeasterly to a point
23 on the Pamlico Sound shore of Ocracoke Island 35° 10.7004' N - 75° 47.9094' W; running
24 northeasterly along the shoreline to a point on the northeastern tip of Ocracoke Island 35°
25 11.2340' N - 75° 46.3051' W; running southeasterly to a point in the Atlantic Ocean at 35°
26 10.6644' N - 75° 44.5221' W; running northeasterly to a point on the ocean shoreline of
27 Hatteras Island ~~35° 11.7894' N - 75° 43.5946' W;~~ 35° 11.7895' N - 75° 43.5947' W;
28 running southwestly around the tip of Hatteras Island to the point of beginning;

29 ~~(3)(c) In in the Ocracoke Inlet Area. Beginning Area: beginning~~ at a point on Ocracoke Island
30 35° 06.2555' N - 75° 59.3722' W; running westerly through Shellcastle Island to a point in
31 Pamlico Sound 35° 05.8599' N - 76° 04.3639' W; running southerly to a point on
32 Portsmouth Island ~~35° 03.7378' N - 76° 04.7850' W;~~ 35° 03.7379' N - 76° 04.7850' W;
33 running northeasterly along the shore of Pamlico Sound around the western side of
34 Ocracoke Inlet and southwestly along the shore of the Atlantic Ocean to a point 35°
35 03.0500' N - 76° 03.0833' W; running southeasterly offshore to a point in the Atlantic
36 Ocean 35° 02.6333' N - 76° 02.7166' W; running northeasterly to a point in the ocean 35°
37 03.9666' N - 75° 59.3000' W; running northwesterly to a point on the Atlantic shore of

Ocracoke Island 35° 04.7402' N - 75° 59.7124' W; running southwesterly along the shore around the eastern side of Ocracoke Inlet and northeasterly along the shore to the point of beginning;

(4)(d) ~~In the Drum Inlet Area. Beginning at a point on the Core Sound shore of Core Banks 34° 52.81101' N - 76° 17.1780' W; running northwesterly to a point in Core Sound 34° 53.7347' N - 76° 18.0439' W; running southwesterly to a point in Core Sound 34° 50.8286' N - 76° 21.2515' W; running southeasterly to a point on the Core Sound shore of Core Banks 34° 50.1496' N - 76° 20.3924' W; following the shoreline in a northeasterly direction around the western side of Drum Inlet then along the Atlantic Ocean shoreline to a point on Core Banks 34° 50.0049' N - 76° 20.3741' W; running southeasterly to a point in the Atlantic Ocean 34° 49.4995' N - 76° 19.8407' W; running northeasterly to a point in the Atlantic Ocean 34° 52.2167' N - 76° 16.7476' W; running northwesterly to a point on the ocean shore of Core Banks 34° 52.6147' N - 76° 17.0705' W; running southwesterly toward and around the eastern side of Drum Inlet, then in a northeasterly direction along the Core Sound shore of Core Sound to the point of beginning; Ophelia and Drum Inlet Area: beginning at a point on the Core Sound shore of Core Banks 34° 51.7718' N - 76° 18.5093' W; running northwesterly to a point in Core Sound 34° 52.3431' N - 76° 19.1661' W; running southwesterly to a point near Marker "27" in Core Sound 34° 50.6411' N - 76° 22.0094' W; running southwesterly to a point in Core Sound 34° 49.0120' N - 76° 23.0288' W; running southeasterly to a point on the Core Sound shore of Core Banks 34° 48.6143' N - 76° 22.3033' W; following the shoreline in a northeasterly direction around the western side of Ophelia Inlet then along the Atlantic Ocean shoreline southwesterly to a point on Core Banks 34° 48.9349' N - 76° 21.4582' W; extending 100 yards seaward from the shoreline from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point on Core Banks 34° 51.6790' N - 76° 18.3829' W; running southwesterly along the Atlantic Ocean shoreline toward and around the eastern side of Ophelia Inlet, then northeasterly along the Core Sound shore of Core Banks to the point of beginning; and~~

(5)(c) ~~In the Bardens Inlet Area. Beginning at a point on Core Banks near the southern side of Hogpen Bay 34° 40.7047' N - 76° 29.6108' W; running westerly to a point near Marker "35" at 34° 40.7071' N - 76° 31.5922' W; running southwesterly to a point on Shackleford Banks 34° 38.9974' N - 76° 32.4858' W; running southeasterly around the eastern end of Shackleford Banks and then northwesterly along the ocean shoreline to a point on shore 34° 38.5608' N - 76° 32.6863' W; running southwesterly through Buoy "4" to Buoy "2" at the end of the Cape Lookout Jetty 34° 37.1272' N - 76° 33.7381' W; running southeasterly to the base of the Cape Lookout Jetty 34° 36.7836' N - 76° 33.1569' W; running northerly to the end of Power Squadron Spit, around Lookout Bight and northerly up Core Banks to~~

1 the point of beginning-Barden Inlet Area: beginning at a point on the Core Sound shore of
2 Core Banks 34° 40.7131' N – 76° 28.9495' W; running northwesterly to a point on Harkers
3 Island 34° 41.0674' N – 76° 31.5834' W; running southwesterly to a point on Shackleford
4 Banks 34° 39.5418' N - 76° 34.0451' W; following the shoreline in southeasterly direction
5 around the northern side of Barden Inlet then along the Atlantic Ocean shoreline
6 northwesterly to a point on Shackleford Banks 34° 38.7748' N - 76° 32.8463' W; running
7 southwesterly to a point in the Atlantic Ocean 34° 38.2938' N - 76° 33.5130' W; running
8 southerly to a point near Buoy "2" at the end of the Cape Lookout Jetty in the Atlantic
9 Ocean 34° 37.1253' N - 76° 33.7446' W; running southeasterly to a point on Cape Lookout
10 34° 36.7229' N - 76° 33.0514' W; running northerly along the Atlantic Ocean shoreline
11 toward and around the southern side of Barden Inlet to a point on Cape Lookout 34°
12 36.5492' N - 76° 32.2416' W, then running northeasterly along the Core Sound shore of
13 Core Banks to the point of beginning.

14 (2) in Areas from Beaufort Inlet and West and South:

15 (a) Beaufort Inlet Area: beginning at a point on the Back Sound side of Shackleford Banks 34°
16 41.0017' N - 76° 37.7538' W; running northerly to a point on Carrot Island 34° 42.3553' N
17 - 76° 37.1124' W; running westerly along the shoreline to a point on Carrot Island 34°
18 42.6291' N - 76° 38.6608' W; running westerly to a point on Town Marsh 34° 42.6394' N -
19 76° 38.7442' W; running westerly along the shoreline to a point on Town Marsh 34°
20 42.7915' N - 76° 40.2489' W; running westerly to a point on Bird Shoal 34° 42.7694' N -
21 76° 40.4764' W; running northerly to a point on Pivers Island 34° 42.9294' N - 76° 40.4301'
22 W; running northerly along the shoreline to a point on Pivers Island 34° 43.1892' N - 76°
23 40.3873' W; running northerly to a point on Radio Island 34° 43.2344' N - 76° 40.4099' W;
24 running along the shoreline to a point on Radio Island 34° 43.2770' N - 76° 41.2422' W;
25 running along the south side of the Highway 70 Bridge over the Newport River to a point
26 near the Morehead City Port 34° 43.2419' N - 76° 41.7067' W; running southerly along the
27 shore to a point near the Morehead City Port 34° 42.9560' N - 76° 41.6986' W; running
28 southwesterly to a point on Goat Island 34° 42.7185' N - 76° 41.9145' W; running
29 southeasterly along the shoreline to a point on Goat Island 34° 42.2031' N - 76° 41.3923'
30 W; running southwesterly to a point on shore near Fort Macon State Park 34° 42.1709' N -
31 76° 41.3693' W; following the shoreline in a southwesterly direction around the western
32 shoreline of Beaufort Inlet then along the Atlantic Ocean shoreline to a point on Bogue
33 Banks 34° 41.6480' N - 76° 42.0986' W; extending 100 yards seaward from the shoreline
34 from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean
35 and running easterly then southeasterly and returning to shore parallel to a point on
36 Shackleford Banks 34° 40.6129' N - 76° 38.1521' W; running northwesterly along the

1 Atlantic Ocean shoreline around the eastern side of Beaufort Inlet, then running easterly
2 along the Back Sound shore of Shackleford Banks to the point of beginning;

3 (b) Bogue Inlet Area: beginning at a point on Bogue Banks 34° 39.1828' N - 77° 05.8503' W;
4 running northerly to a point 34° 40.1526' N - 77° 05.6346' W; running northerly to a point
5 34° 40.2531' N - 77° 05.6385' W; running westerly to a point 34° 40.2550' N - 77° 05.9450'
6 W; running southerly to a point 34° 40.1732' N - 77° 05.9616' W; running southerly to a
7 point 34° 39.9629' N - 77° 06.1038' W; running southerly to a point 34° 39.5209' N - 77°
8 06.4042; running southwestery to a point 34° 39.0599' N - 77° 07.3287' W; running
9 southerly to a point on Bear Island 34° 38.3856' N - 77° 07.2373'; following the shoreline
10 in a northeasterly direction around the western shoreline of Bogue Inlet then along the
11 Atlantic Ocean shoreline to a point on Bear Island 34° 37.5607' N - 77° 09.5752' W;
12 extending 100 yards seaward from the shoreline from the mean high water line and the
13 COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning
14 to shore parallel to a point on Bogue Banks 34° 38.7491' N - 77° 05.2548' W; running
15 southwesterly along the Atlantic Ocean shoreline around the eastern side of Bogue Inlet to
16 a point 34° 38.7686' N - 77° 06.0596' W; running northerly to a point 34° 38.9900' N - 77°
17 06.1269' W, then running northeasterly to the point of beginning;

18 (c) Bear Inlet Area: beginning at a point on Bear Island 34° 37.7852' N - 77° 09.7128' W;
19 running northerly to a point 34° 37.8817' N - 77° 09.7698' W; running southwestery to a
20 point 34° 37.6695' N - 77° 10.4134' W; running northwesterly to a point 34° 37.8105' N -
21 77° 10.5849' W; running southwestery to a point on Saunders Island 34° 37.4531' N - 77°
22 11.0624' W; running southeasterly to a point on Browns Island 34° 37.2216' N - 77°
23 10.8461' W; following the shoreline in northeasterly direction around the western shoreline
24 of Bear Inlet then along the Atlantic Ocean shoreline to a point on Browns Island 34°
25 36.1188' N - 77° 13.0193' W; extending 100 yards seaward from the shoreline from the
26 mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and
27 running northeasterly and returning to shore parallel to a point on Bear Island 34° 37.5607'
28 N - 77° 09.5752' W; running southwestery along the Atlantic Ocean shoreline around the
29 eastern shoreline of Bear Inlet, then northeasterly along the shore to the point of beginning;

30 (d) Browns Inlet Area: beginning at a point on Browns Island 34° 35.8978' N - 77° 13.8409'
31 W; running northwesterly to a point 34° 36.0015' N - 77° 13.9606' W; running westerly to
32 a point 34° 35.9360' N - 77° 14.1340' W; running southerly to a point 34° 35.6631' N - 77°
33 14.1270' W; following the shoreline in a northeasterly direction around the western
34 shoreline of Browns Inlet then along the Atlantic Ocean shoreline to a point 34° 33.7692'
35 N - 77° 16.8043' W; extending 100 yards seaward from the shoreline from the mean high
36 water line and the COLREG Demarcation Line in the Atlantic Ocean and running
37 northeasterly and returning to shore parallel to a point on Browns Island 34° 36.1188' N -

- 1 77° 13.0193' W; running southwesterly along the Atlantic Ocean shoreline around the
2 eastern shoreline of Browns Inlet, then northerly along the shore to the point of beginning;
- 3 (e) New River Inlet Area: beginning at a point on shore on the south side of Wards Channel
4 34° 32.2064' N - 77° 19.8404' W; running northwesterly to a point 34° 33.1386' N - 77°
5 20.8902' W; running westerly to a point 34° 33.1097' N - 77° 21.1013' W; running
6 southeasterly to a point 34° 32.3473' N - 77° 20.6013' W; running southwesterly to a point
7 on Topsail Island 34° 32.1096' N - 77° 20.8447' W; following the shore line in a southerly
8 direction around the western shoreline of New River Inlet then along the Atlantic Ocean
9 shoreline to a point 34° 31.3352' N - 77° 21.1694' W; extending 100 yards seaward from
10 the shoreline from the mean high water line and the COLREG Demarcation Line in the
11 Atlantic Ocean and running northeasterly and returning to shore parallel to a point 34°
12 33.7692' N - 77° 16.8043' W; running southwesterly along the Atlantic Ocean shoreline
13 around the eastern shoreline of New River Inlet, then northeasterly along the shore to the
14 point of beginning;
- 15 (f) Topsail Inlet Area: beginning at a point on Topsail Island 34° 21.9619' N - 77° 37.8381' W;
16 running northwesterly to a point in Topsail Sound 34° 22.1071' N - 77° 37.9944' W; running
17 southwesterly to a point near Marker "5" 34° 21.7185' N - 77° 38.3499' W; running
18 southwesterly to a point near Marker "3" 34° 21.5798' N - 77° 38.5928' W; running
19 southwesterly to a point near Marker "1" 34° 21.1055' N - 77° 39.1749' W; running
20 northwesterly to a point 34° 21.2065' N - 77° 39.6127' W; running southwesterly to a point
21 34° 20.7450' N - 77° 40.3682' W; running southerly to a point 34° 20.3011' N - 77° 40.3728'
22 W; following the shoreline in a northeasterly direction around the western shoreline of
23 Topsail Inlet then along the Atlantic Ocean shoreline to a point on Lea-Hutaff Island 34°
24 20.0228' N - 77° 40.4332' W; extending 100 yards seaward from the shoreline from the
25 mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and
26 running northeasterly and returning to shore parallel to a point on Topsail Island 34°
27 20.8762' N - 77° 38.9403' W; running southwesterly along the Atlantic Ocean shoreline
28 around the eastern shore of Topsail Inlet, then northeasterly along the Topsail Sound shore
29 of Topsail Island to the point of beginning;
- 30 (g) Rich Inlet Area: beginning at a point on Lea-Hutaff Island 34° 18.1292' N - 77° 42.6492'
31 W; running northwesterly to a point 34° 18.2851' N - 77° 42.9352' W; running
32 southwesterly to a point 34° 18.0190' N - 77° 43.2798' W; running southerly to a point on
33 Figure Eight Island 34° 17.5649' N - 77° 43.1649' W; following the shoreline in an easterly
34 direction around the southern shoreline of Rich Inlet then along the Atlantic Ocean
35 shoreline to a point on Figure Eight Island 34° 17.2243' N - 77° 43.2491' W; extending 100
36 yards seaward from the shoreline from the mean high water line and the COLREG
37 Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore

1 parallel to a point on Lea-Hutaff Island 34° 18.1251' N - 77° 42.4352' W; running
2 southwesterly along the Atlantic Ocean shoreline around the northern shoreline of Rich
3 Inlet, then northeasterly along the shore to the point of beginning;

4 (h) Mason Inlet Area: beginning at a point on Figure Eight Island 34° 14.9536' N - 77° 45.9567'
5 W; running northwesterly to a point 34° 15.0409' N - 77° 46.1766' W; running southwesterly
6 to a point 34° 14.8657' N - 77° 46.4044' W; running southwesterly to a point 34° 14.7256'
7 N - 77° 46.5348' W; running southerly to a point on Shell Island 34° 14.2036' N - 77°
8 46.5189' W; following the shoreline in a northeasterly direction around the southern
9 shoreline of Mason Inlet then along the Atlantic Ocean shoreline to a point on Shell Island
10 34° 14.1375' N - 77° 46.4263' W; extending 100 yards seaward from the shoreline from the
11 mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and
12 running northeasterly and returning to shore parallel to a point on Figure Eight Island 34°
13 14.8474' N - 77° 45.7857' W; running southwesterly along the Atlantic Ocean shoreline
14 around the northern shoreline of Mason Inlet, then northeasterly along the shore to the point
15 of beginning;

16 (i) Masonboro Inlet Area: beginning at a point on Wrightsville Beach 34° 11.3446' N - 77°
17 48.7458' W; running northwesterly to a point 34° 11.4604' N - 77° 49.0510' W; running
18 northwesterly to a point 34° 11.5164' N - 77° 49.2368' W; running northwesterly to a point
19 34° 11.5255' N - 77° 49.2652' W; running northwesterly to a point 34° 11.5700' N - 77°
20 49.4425' W; running southwesterly to a point 34° 11.3553' N - 77° 49.5924' W; running
21 easterly to a point 34° 11.3737' N - 77° 49.4628' W; running easterly to a point 34° 11.3737'
22 N - 77° 49.4345' W; following the shoreline southeasterly to a point 34° 11.2551' N - 77°
23 49.2287' W; running southerly to a point on Masonboro Island 34° 10.8451' N - 77°
24 49.0242' W; following the shoreline in an easterly direction around the southern shoreline
25 of Masonboro Inlet through a point at the base of the jetty 34° 10.8814' N - 77° 48.7074'
26 W; running southwesterly along the Atlantic Ocean shoreline to a point on Masonboro
27 Island 34° 10.5221' N - 77° 49.1658' W; extending 100 yards seaward from the shoreline
28 and the Atlantic Ocean side of the jetties from the mean high water line and the COLREG
29 Demarcation Line in the Atlantic Ocean and returning to shore parallel to a point 34°
30 11.5753' N - 77° 48.3061' W; running southwesterly along the Atlantic Ocean shoreline
31 through a point at the base of the jetty 34° 11.2076' N - 77° 48.5555' W, around the northern
32 shoreline of Masonboro Inlet then northeasterly along the shore to the point of beginning;

33 (j) Carolina Beach Inlet Area: beginning at a point on Masonboro Island 34° 04.8168' N - 77°
34 52.8796' W; running southerly to a point 34° 04.4997' N - 77° 53.0080' W; following the
35 shoreline in an easterly direction to a point 34° 04.5022' N - 77° 52.7982' W; running
36 easterly to a point on Pleasure Island 34° 04.5102' N - 77° 52.7340' W; following the
37 shoreline in an easterly direction around the southern shoreline of Carolina Beach Inlet

1 then along the Atlantic Ocean shoreline to a point on Pleasure Island 34° 04.3505' N - 77°
2 52.5048' W; extending 100 yards seaward from the mean high water line and the COLREG
3 Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore
4 parallel to a point on Masonboro Island 34° 05.2151' N - 77° 52.1472' W; running
5 southeasterly along the Atlantic Ocean shoreline around the northern shoreline of Carolina
6 Beach Inlet, then westerly along the shore to the point of beginning;

7 (k) Cape Fear River Inlet Area: beginning at a point on Bald Head Island 33° 52.7072' N - 78°
8 00.0449' W; running northeasterly to a point 33° 53.6135' N - 77° 59.2549' W; running
9 northerly to a point 33° 54.4086' N - 77° 59.0330' W; running northerly to a point 33°
10 54.8399' N - 77° 58.9115' W; running westerly to a point at Southport 33° 54.9503' N - 78°
11 01.3581' W; running southerly to a point on Fort Caswell 33° 53.7948' N - 78° 01.0782' W;
12 following the shoreline in a southerly direction around the western shoreline of Cape Fear
13 River Inlet then westerly along the Atlantic Ocean shoreline to a point on Caswell Beach
14 33° 53.4293' N - 78° 01.7604' W; extending 100 yards seaward from the mean high water
15 line and the COLREG Demarcation Line in the Atlantic Ocean and running southerly to
16 point near Buoy "12" 33° 51.8213' N - 78° 01.0179' W; running southeasterly to a point 33°
17 51.1999' N - 78° 00.0632' W; running northeasterly to a point on Bald Head Island 33°
18 51.3488' N - 77° 59.9222' W; running northwesterly along the Atlantic Ocean shoreline
19 around the eastern shore of Cape Fear River Inlet, then northeasterly along the shore to the
20 point of beginning;

21 (l) Lockwoods Folly Inlet Area: beginning at a point on Oak Island 33° 54.9392' N - 78°
22 13.6711' W; running northerly to a point on Sheep Island 33° 55.0837' N - 78° 13.6753' W;
23 following the shoreline northwesterly to a point on Sheep Island 33° 55.2263' N - 78°
24 13.9395' W; running westerly to a point on Holden Beach 33° 55.1794' N - 78° 14.3132'
25 W; following the shoreline in a southwesterly direction around the western shore of
26 Lockwoods Folly Inlet then along the Atlantic Ocean shoreline to a point on Holden Beach
27 33° 54.8695' N - 78° 14.6180' W; running southerly to a point in the Atlantic Ocean 33°
28 54.6076' N - 78° 14.6026' W; running easterly to a point in the Atlantic Ocean 33° 54.5564'
29 N - 78 14.0529' W; running northerly to a point on Oak Island 33° 54.8853' N - 78° 14.0041'
30 W; running northwesterly along the Atlantic Ocean shoreline around the eastern shore of
31 Lockwoods Folly Inlet, then easterly along the shore to the point of beginning;

32 (m) Shallotte Inlet Area: beginning at a point near Monks Island 33° 54.5773' N - 78° 22.8077'
33 W; running southwesterly to a point on Ocean Isle Beach 33° 54.2436' N - 78° 23.2758' W;
34 following the shoreline in a southerly direction around the western shore of Shallotte Inlet
35 then along the Atlantic Ocean shoreline to a point on Ocean Isle Beach 33° 53.8151' N -
36 78° 23.7753' W; extending 100 yards seaward from the mean high water line and the
37 COLREG Demarcation Line in the Atlantic Ocean and running easterly and returning to

1 shore parallel to a point on Big Beach 33° 54.1103' N - 78° 21.9540' W; running westerly
2 along the Atlantic Ocean shoreline around the eastern shore of Shallotte Inlet, then
3 northerly along the shore to the point of beginning; and

4 (n) Tubbs Inlet Area: beginning at a point on the Jinks Creek shore of Ocean Isle Beach 33°
5 52.5844' N - 78° 28.6583' W; running northerly to a point 33° 52.7734' N - 78° 28.7428' W;
6 running southwesterly to a point 33° 52.6815' N - 78° 29.0080' W; running southwesterly
7 to a point on the Eastern Channel shore of Sunset Beach 33° 52.3878' N - 78° 29.1301' W;
8 following the shoreline in an easterly direction around the western shore of Tubbs Inlet
9 then along the Atlantic Ocean shoreline to a point on Sunset Beach 33° 52.3250' N - 78°
10 29.1865' W; extending 100 yards seaward of the mean high water line and the COLREG
11 Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore
12 parallel to a point on Ocean Isle Beach 33° 52.5676' N - 78° 28.4027' W; running
13 southwesterly along the Atlantic Ocean shoreline around the eastern shore of Tubbs Inlet
14 then in a northerly direction along the shore to the point of beginning.

15
16 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*
17 *Eff. January 1, 1991;*
18 *Amended Eff. September 1, 1991;*
19 *Recodified from 15A NCAC 03R .0010 Eff. December 17, 1996;*
20 *Amended Eff. August 1, 2004;*
21 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
22 *2018;*
23 *Amended Eff. (Pending legislative review of 15A NCAC 03L .0205).*

1 15A NCAC 03R .0111 is amended as published in 36:07 NCR 508 as follows:

2
3 **15A NCAC 03R .0111 PURSE SEINES PROHIBITED**

4 The areas referenced in 15A NCAC 03J .0105(b)(1) are delineated in the following coastal fishing waters of the
5 Atlantic Ocean:

6 ~~(a)(1) It is unlawful to take menhaden or Atlantic thread herring by the use of a purse seine from in the~~
7 Atlantic Ocean within an area bounded by a line extending from a point near the Bald Head
8 Lighthouse ~~(33° 52.3500' N - 78° 00.3000' W)~~ 33° 52.3500' N - 78° 00.3000' W; running
9 southwesterly to a point near the Cape Fear River ship channel buoy "9" ~~(33° 51.5500' N - 78°~~
10 ~~01.5500' W)~~, then 33° 51.5500' N - 78° 01.5500' W; running northwesterly to a point near the foot
11 of the Yaupon Beach Fishing Pier on Oak Island ~~(33° 54.2000' N - 78° 04.9333' W)~~, then 33°
12 54.2000' N - 78° 04.9333' W; following the shoreline easterly to a point near Fort Caswell ~~(33°~~
13 ~~53.2166' N - 78° 01.1833' W)~~, then 33° 53.2166' N - 78° 01.1833' W; running southeasterly ~~back~~
14 to the point of ~~origin~~ beginning;

15 ~~(b)(2) It is unlawful to take menhaden or Atlantic thread herring by the use of a purse seine from in the~~
16 Atlantic Ocean from May 1 through September 30:

17 ~~(1)(a) In that in the~~ area bounded by a line beginning at a point onshore at the northern boundary
18 of Dare County 36° 13.8536' N - 75° 46.3914' W; running easterly 1.5 nautical miles to a
19 point offshore 36° 13.8536' N - 75° 44.3814' W; running southerly parallel to and 1.5
20 nautical miles from the ocean beach to a point 1.5 nautical miles offshore at the northern
21 town limits of Southern Shores 36° 09.0673' N - 75° 44.2225' W; running westerly to a
22 point onshore at the northern town limits of Southern Shores 36° 09.0673' N - 75° 42.2416'
23 W; and

24 ~~(2)(b) In that in the~~ area bounded by a line beginning at a point at the southern limits of Kitty
25 Hawk 36° 03.3187' N - 75° 40.9503' W; running easterly 1.5 nautical miles to a point
26 offshore 36° 03.3187' N - 75° 38.8029' W; running southerly parallel to and 1.5 nautical
27 miles from the ocean beach to a point 1.5 nautical miles offshore of the rock jetty south of
28 Oregon Inlet 35° 46.4052' N - 75° 29.2379' W; running westerly to a point onshore at the
29 rock jetty south of Oregon Inlet 35° 46.4052' N - 75° 31.5369' ~~W; W~~; and

30 ~~(c)(3) It is unlawful to take menhaden or Atlantic thread herring by the use of a purse seine from the in the~~
31 Atlantic Ocean from October 1 through December 31:

32 ~~(1)(a) In that in the~~ area bounded by a line beginning at a point onshore at the northern boundary
33 of Dare County 36° 13.8536' N - 75° 46.3914' W; running easterly 0.5 nautical miles to a
34 point offshore 36° 13.8536' N - 75° 45.6977' W; running southerly parallel to and 0.5
35 nautical miles off the ocean beach to a point 0.5 nautical miles offshore at the northern
36 town limits of Southern Shores 36° 09.0673' N - 75° 43.5514' W; running westerly 0.5

1 nautical miles to a point onshore at the northern town limits of Southern Shores 36°
2 09.0673' N - 75° 44.2416' W; and

3 ~~(2)(b) In that in the~~ area bounded by a line beginning at a point at the southern limits of Kitty
4 Hawk 36° 03.3187' N - 75° 40.9503' W; running easterly 0.5 nautical miles to a point
5 offshore 36° 03.3187' N - 75° 40.2033' W; running southerly parallel to and 0.5 nautical
6 ~~mile-miles~~ off the ocean beach to a point offshore at the rock jetty south of Oregon Inlet
7 35° 46.4052' N - 75° 30.6134' W; running westerly to a point onshore at the rock jetty south
8 of Oregon Inlet 35° 46.4052' N - 75° 31.5369' W.

9
10 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*
11 *Eff. January 1, 1991;*
12 *Amended Eff. October 1, 1993;*
13 *Recodified from 15A NCAC 03R .0011 Eff. December 17, 1996;*
14 *Amended Eff. August 1, 2004;*
15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
16 *2018;*
17 *Amended Eff. (Pending legislative review of 15A NCAC 03J .0105).*

1 15A NCAC 03R .0118 is amended as published in 36:07 NCR 508-509 as follows:

2
3 **15A NCAC 03R .0118 ~~EXEMPTED CRAB POT ESCAPE RING AREAS~~ CRAB HARVEST**
4 **MANAGEMENT AREAS**

5 The areas referenced in 15A NCAC 03J-.0301(g)-03L .0201(a) and (b) are delineated in the following coastal fishing
6 waters:

- 7 (1) ~~Pamlico Sound within the area described by a line beginning at a point 35° 43.7457' N 75°~~
8 ~~30.7014' W on the south shore of Eagles Nest Bay on Pea Island; running westerly to a point 35°~~
9 ~~42.9500' N 75° 34.1500' W; running southerly to a point 35° 39.3500' N 75° 34.4000' W; running~~
10 ~~southeasterly to a point 35° 35.8931' N 75° 31.1514' W in Chicamacomico Channel near Beacon~~
11 ~~"ICC"; running southerly to a point 35° 28.5610' N 75° 31.5825' W on Gull Island; running~~
12 ~~southwesterly to a point 35° 22.8671' N 75° 33.5851' W in Avon Channel near Beacon "1AV";~~
13 ~~running southwesterly to a point 35° 18.9603' N 75° 36.0817' W in Cape Channel near Beacon~~
14 ~~"2"; running westerly to a point 35° 16.7588' N 75° 44.2554' W in Rollinson Channel near Beacon~~
15 ~~"42RC"; running southwesterly to a point 35° 14.0337' N 75° 45.9643' W southwest of Oliver Reef~~
16 ~~near the quick flashing beacon; running westerly to a point 35° 09.3650' N 76° 00.6377' W in Big~~
17 ~~Foot Slough Channel near Beacon "14BF"; running southwesterly to a point 35° 08.4523' N 76°~~
18 ~~02.6651' W in Nine Foot Shoal Channel near Beacon "9"; running westerly to a point 35° 07.1000'~~
19 ~~N 76° 06.9000' W; running southwesterly to a point 35° 01.4985' N 76° 11.4353' W near Beacon~~
20 ~~"HL"; running southwesterly to a point 35° 00.2728' N 76° 12.1903' W near Beacon "ICS";~~
21 ~~running southerly to a point 34° 59.5027' N 76° 12.3204' W in Wainwright Channel immediately~~
22 ~~east of the northern tip of Wainwright Island; running southwesterly to a point 34° 59.3610' N 76°~~
23 ~~12.6040' W on Wainwright Island; running easterly to a point at 34° 58.7853' N 76° 09.8922' W~~
24 ~~on Core Banks; running easterly and northerly along the shoreline across the inlets following the~~
25 ~~COLREGS Demarcation line up the Outer Banks to the point of beginning.~~
26 ~~Northern Region: All~~
27 ~~Coastal Fishing Waters of the state north and east of a line extending southeast from the Highway~~
28 ~~58 Bridge to a point offshore at 34° 36.3292' N - 77° 02.5940' W to the North Carolina/Virginia~~
29 ~~state line.~~
30 (2) ~~Newport River, from April 1 through June 15 within the area described by a line beginning at a~~
31 ~~point 34° 49.5080' N 76° 41.4440' W; running westerly along the south side of the Highway 101~~
32 ~~Bridge over Core Creek to a point on the west shore 34° 49.5260' N 76° 41.5130' W; running along~~
33 ~~the shoreline of Newport River and its tributaries to a point 34° 49.3050' N 76° 44.2350' W; running~~
34 ~~westerly along the south side of the Highway 101 Bridge over Harlowe Canal to a point on the west~~
35 ~~shore 34° 49.2980' N 76° 44.2610' W; running along the shoreline of Newport River and its~~
36 ~~tributaries to a point 34° 45.2478' N 76° 46.4479' W; running southerly along the Inland Coastal~~
37 ~~Waters boundary line to a point 34° 45.1840' N 76° 46.4488' W; running along the shoreline of~~
~~Newport River and its tributaries to a point 34° 43.2520' N 76° 41.6840' W; running easterly along~~

1 ~~the north side of the Highway 70 Bridge over Newport River to a point 34° 43.2840' N - 76° 41.2200'~~
2 ~~W; running along the shoreline of Newport River and its tributaries to a point 34° 43.3530' N - 76°~~
3 ~~40.2080' W; running easterly across Gallant Channel to a point 34° 43.3521' N - 76° 40.0871' W;~~
4 ~~running along the shoreline of Newport River and its tributaries back to the point of~~
5 ~~beginning.~~ Southern Region: All Coastal Fishing Waters of the State south and west of a line
6 extending southeast from the Highway 58 Bridge to a point offshore at 34° 36.3292' N - 77° 02.5940'
7 W to the North Carolina/South Carolina state line.

8
9 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*
10 *Eff. April 1, 2014;*
11 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
12 *2018;*
13 *Amended Eff. (Pending legislative review of 15A NCAC 03L .0201).*

1 15A NCAC 18A .0135 is readopted as published in 36:07 NCR 509-510 as follows:

2

3 **15A NCAC 18A .0135 PERMITS**

4 (a) ~~No person shall~~ It shall be unlawful to operate a processing facility without a permit issued by the Division, first
5 obtaining a Crustacea Permit and Certificate of Compliance from the Division of Marine Fisheries.

6 (b) ~~No person shall operate a repacker facility without a repacker permit issued by the Division.~~

7 (c) ~~(b)~~ Application for a permit shall be submitted in writing on an application form available from to the Division.
8 Application forms may be obtained from the Division, P.O. Box 769, 3441 Arendell Street, Morehead City, NC 28557.

9 (d) ~~(c)~~ No permit shall be issued by the Division until an inspection by the Division shows that the facility and
10 equipment comply with applicable rules of this Section. The owner or responsible person shall sign the completed
11 inspection sheet to acknowledge receipt of the inspection sheet.

12 (e) ~~A permit issued to one person is not transferrable to another person.~~

13 (f) ~~The permit shall be posted in a conspicuous place in the facility. All permits shall expire on March 31 of each~~
14 ~~year.~~

15 (g) All permits shall expire on March 31 of each year and are non-transferrable.

16 (h) ~~(h)~~ Plans and specifications for proposed new construction, expansion of operations or changes in
17 operating processes shall be submitted to the Division for review and approval prior to beginning
18 construction or making a change.

19 (i) ~~(i)~~ A permit may be revoked or suspended pursuant to G.S. 130A-23 in accordance with 15A NCAC 03O .0504.

20 (j) ~~The owner or responsible person shall sign the completed inspection sheet to acknowledge receipt of the inspection~~
21 ~~sheet.~~

22

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

24 *Eff. October 1, 1992;*

25 *Amended Eff. April 1, 1997;*

26 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 18A .0302 is readopted as published in 36:07 NCR 510 as follows:

2
3 **15A NCAC 18A .0302 PERMITS**

4 (a) ~~No person shall~~ It shall be unlawful to operate any of the following facilities without a permit issued by the
5 Division first obtaining a Shellfish Dealer Permit and Certificate of Compliance from the Division of Marine
6 Fisheries:

- 7 (1) ~~Depuration~~ depuration facilities;
- 8 (2) repacking plants;
- 9 ~~(2)(3)~~ Shellstock ~~shellstock~~ plants; and
- 10 ~~(3)(4)~~ Shucking ~~shucking~~ and packing plants; plants.
- 11 (4) Repacking plants.

12 (b) ~~No person shall~~ It shall be unlawful to operate as a shellstock dealer without a permit issued by the Division first
13 obtaining a Shellfish Dealer Permit and Certificate of Compliance from the Division.

14 (c) ~~A permit may be issued to a reshipper when required for out of state shipment.~~ It shall be unlawful to operate as a
15 reshipper without first obtaining a Shellfish Dealer Permit and Certificate of Compliance from the Division if shellfish
16 are purchased and shipped out of state.

17 (d) Approval for wet storage of shellstock shall be granted only to persons permitted pursuant to this Rule.

18 (e) Application for a permit shall be submitted in writing to the ~~Division at the Shellfish Sanitation Office, Fisheries~~
19 ~~Building, Arendell Street, Morehead City, North Carolina, 28557.~~ Division, P.O. Box 769, 3441 Arendell Street, Morehead City, NC 28557.

20 (f) No permit shall be issued by the Division until an inspection by the Division shows that the ~~facilities~~ facility and
21 equipment comply with all applicable ~~rules~~ Rules in Sections .0300 through .0800 of this Subchapter. The owner or
22 responsible person shall sign the completed inspection sheet to acknowledge receipt of the inspection sheet.

23 (g) All permits shall be posted in a conspicuous place in the ~~facilities.~~ facility. ~~All permits shall expire on April 30 of each~~
24 ~~year.~~ year.

25 (h) All permits shall expire on April 30 of each year and are non-transferrable.

26 ~~(h)(i)~~ (i) Plans and specifications for proposed new construction or remodeling construction, expansion of operations, or
27 changes in operating processes shall be submitted to the Division for review and approval prior to beginning
28 construction or making a change.

29 ~~(j)~~ (j) A permit may be revoked or suspended pursuant to G.S. 130A-23 in accordance with 15A NCAC 03O .0504.

30
31
32 *History Note:* Authority G.S. 130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;

33 Eff. February 1, 1987;

34 Amended Eff. April 1, 1997;

35 Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).

1 15A NCAC 18A .0303 is repealed through readoption as published in 36:07 NCR 510 as follows:

2

3 **15A NCAC 18A .0303 RELAYING PERMITS**

4

5 *History Note: Authority G.S. 130A-230;*

6 *Eff. February 1, 1987;*

7 *Amended Eff. September 1, 1990;*

8 *Repealed Eff. (Pending legislative review of 15A NCAC 03K .0104).*

1 15A NCAC 18A .0304 is repealed through readoption as published in 36:07 NCR 511 as follows:

2

3 **15A NCAC 18A .0304 DEPURATION HARVESTING PERMITS**

4

5 *History Note: Authority G.S. 130A-230;*

6 *Eff. February 1, 1987;*

7 *Amended Eff. September 1, 1990;*

8 *Repealed Eff. May 1, 2022.*

1 15A NCAC 18A .0425 is readopted with changes as published in 36:07 NCR 511 as follows:

2
3 **15A NCAC 18A .0425 TAGGING-DEALER TAGS**

4 (a) ~~In order that information may be available to the Division with reference to the origin of shellstock, Consistent~~
5 ~~with the rules of this Section, it shall be unlawful to possess containers holding shellstock shall be identified with~~
6 ~~without a uniform dealer tag or label affixed after the shellstock is processed or shipped by the initial certified shellfish~~
7 ~~dealer. The tag shall be durable, waterproof-waterproof, and measure at least 2 5/8 by 5 1/4 inches (6.7 by 13.3~~
8 ~~centimeters)-a minimum of two and five-eighths inches by five and one-fourth inches in size. The It shall be unlawful~~
9 ~~for the tag shall to fail to contain legible information arranged in the specific order as follows:~~

- 10 (1) the dealer's name, ~~address-address~~, and certification number assigned by the appropriate shellfish
11 control agency;
- 12 (2) the original shipper's certification number;
- 13 (3) the harvest ~~date;date~~, or if deperated, the date of deperation processing, or if wet stored, the original
14 ~~harvest [date, and]date and~~ the final harvest date, which is the date removed from wet storage;
- 15 (4) ~~if wet stored or deperated, the wet storage or deperation cycle or lot number. The wet storage lot~~
16 ~~number shall begin with the letter "W":~~
- 17 (4)(5) ~~the harvest location, including the country or state abbreviation;the most precise identification of~~
18 ~~the harvest location as is practicable, including the initials of the state of harvest, and the state or~~
19 ~~local shellfish control authority's designation of the growing area by indexing, administrative, or~~
20 ~~geographic designation. If the authority in another state has not indexed growing areas, then a~~
21 ~~geographical or administrative designation shall be used (e.g., Long Bay, shellfish lease or franchise~~
22 ~~number, or lot number);~~
- 23 (5) ~~when the shellstock has been in wet storage, the statement "THIS PRODUCT WAS IN WET~~
24 ~~STORAGE AT (FACILITY CERTIFICATION NUMBER) FROM (DATE) TO (DATE)";~~
- 25 (6) the type and quantity of ~~shellfish;shellstock~~;
- 26 (7) the following ~~statement shall appear-statements~~ in ~~bold-bold~~, capitalized ~~type-font~~:
- 27 (A) "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND
28 THEREAFTER KEPT ON FILE-FILE, IN CHRONOLOGICAL ORDER, FOR 90
29 DAYS;"-DAYS."; and
- 30 (B) "RETAILERS: DATE WHEN LAST SHELLFISH FROM THIS CONTAINER SOLD
31 OR SERVED (INSERT DATE) _____.";
- 32 (8) the following statement, or ~~equivalent, equivalent~~:
- 33 "Consumer Advisory
- 34 Eating raw oysters, ~~elams-clams~~, or mussels may cause severe illness. People with the following
- 35 conditions are at especially high risk: liver disease, alcoholism, diabetes, cancer, stomach or blood
- 36 disorder, or weakened immune system. Ask your doctor if you are unsure of your risk. If you eat
- 37 raw shellfish and become sick, see a doctor ~~immediately."~~immediately."; and

1 (9) the following statement, or equivalent:

2 "Keep Refrigerated".

3 (b) The ~~uniform-dealer~~ tag or label shall remain attached to the shellstock container until the container is empty and
4 thereafter shall be kept on ~~file-file, in chronological order,~~ for 90 days.

5 ~~(c) All shellstock from a depuration facility must be identified as having been cleansed by a depuration facility~~
6 ~~identified by a name and permit number on the tag.~~

7

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

9 *Eff. February 1, 1987;*

10 *Amended Eff. April 1, 1997; January 4, 1994; December 1, 1987;*

11 *Temporary Amendment Eff. October 12, 1998; February 1, 1998;*

12 *Amended Eff. April 1, 1999;*

13 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 18A .0912 is repealed through readoption as published in 36:07 NCR 511 as follows:

2

3 **15A NCAC 18A .0912 SHELLFISH MANAGEMENT AREAS**

4

5 *History Note: Authority G.S. 130A-230;*

6 *Eff. June 1, 1989;*

7 *Repealed Eff. May 1, 2022.*