

1 15A NCAC 03M .0509 is readopted as published in 34:07 NCR 549 as follows:

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3 **15A NCAC 03M .0509 TARPON**

4 (a) It ~~is shall~~ be unlawful to ~~sell possess, sell,~~ or offer for sale tarpon.

5 (b) ~~It is unlawful to possess more than one tarpon per person taken in any one day.~~

6 ~~(c)~~(b) It ~~is shall~~ be unlawful to take tarpon by any method other than ~~hook and line~~hook and line.

7 (c) It shall be unlawful to gaff, spear, or puncture a tarpon.

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9 *History Note: Authority G.S. 113-134; 113-182; ~~113-221; 143B-289.4; 143B-289.52;~~*

10 *Eff. October 1, 1992;*

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0108

DEADLINE FOR RECEIPT: April 9, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

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

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

At line 5, please consider changing "cannot" to "shall not."

At lines 12 and 14, what is a "certified statement?" Are you requiring the statement be notarized? Or are you requiring a signed written statement?

At line 12, did you intend to say "marine or estuarine" instead of "marine and estuarine?"

In (d), please delete or define "properly."

In (g), please capitalize "If" at line 33.

In (h)(3)(A), where is your statutory authority to expand the definition of "immediate family" as defined in G.S. 113-168(3a). Please review 113-168.2(g) and 1133-168.3(c).

In (h)(5), to be clear, is this in addition to the information required in Paragraph (c)?

On page 3, line 26, please delete or define "originally."

Throughout (h)(9), please replace "Administrator/Executor" with "Administrator or Executor."

On page 4, line 5, please change "must" to "shall."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: March 27, 2020

1 15A NCAC 03O .0108 is readopted as published in 34:07 NCR 549-551 as follows:

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3 **15A NCAC 03O .0108 LICENSE AND COMMERCIAL FISHING VESSEL REGISTRATION**
4 **TRANSFERS**

5 (a) To transfer a license or Commercial Fishing Vessel Registration, the license or registration cannot be expired prior
6 to transfer.

7 (b) Upon transfer of a license or Commercial Fishing Vessel Registration, the transferee becomes the licensee and
8 assumes the privileges of holding the license or Commercial Fishing Vessel Registration.

9 (c) A transfer application including a certification statement form shall be provided by the Division of Marine
10 Fisheries. A transfer application shall be completed for each transfer including, but not limited to:

11 (1) the information required as set forth in Rule .0101(a) of this Section;

12 (2) a certified statement from the transferee listing any violations involving marine and estuarine
13 resources in the State of North Carolina during the previous three years; and

14 (3) a certified statement from the transferee that the information and supporting documentation
15 submitted with the transfer application is true and correct, and that the transferee acknowledges that
16 it is unlawful for a person to accept transfer of a license for which they are ineligible.

17 (d) A properly completed transfer application shall be returned to an office of the Division by mail or in person,
18 except as set forth in Paragraph (e) of this Rule.

19 (e) A transfer application submitted to the Division without complete and required information shall be deemed
20 incomplete and shall not be considered further until resubmitted with all required information. Incomplete applications
21 shall be returned to the applicant with deficiency in the application so noted.

22 ~~(a)(f)~~ Licenses-A License to Land Flounder from the Atlantic Ocean may shall only be transferred:

23 (1) with the transfer of the ownership of a vessel that the licensee owns that individually met the
24 eligibility requirements of ~~15A NCAC 3O .0101 (b) (1) (A) and (b) (1) (B)~~ Rule .0101 (b)(1)(A)
25 and (b)(1)(B) of this Section to the new owner of that vessel. Transfer of the License to Land
26 Flounder from the Atlantic Ocean transfers all flounder landings from the Atlantic Ocean associated
27 with that vessel; or

28 (2) by the owner of a vessel to another vessel under the same ownership.

29 Transfer of a License to Land Flounder from the Atlantic Ocean transfers with it all flounder landings from
30 the Atlantic Ocean associated with that vessel. Any transfer of license under this Paragraph may shall only
31 be processed through the Division of Marine Fisheries Morehead City Headquarters Office and no transfer
32 is effective until approved and processed by the Division.

33 ~~(b)(g)~~ Transfer of a Commercial Fishing Vessel Registration Transfer. Registration: When if transferring ownership
34 of a vessel bearing a current ~~commercial fishing vessel registration, Commercial Fishing Vessel Registration,~~ the new
35 ownerowner:

1 (1) ~~shall follow the requirements in 15A-NCAC 03O-0101~~Rule .0101 of this Section and pay a
2 replacement fee of ~~ten dollars (\$10.00) as set forth in Rule .0107 of this Section~~ for a replacement
3 commercial fishing vessel registration. Commercial Fishing Vessel Registration; and

4 (2) ~~The new owner must shall~~ submit a transfer form application provided by the Division with the
5 signatures of the former licensee owner and the signature of the new licensee owner notarized.

6 ~~(e)~~(h) Transfer of a Standard or Retired Standard Commercial Fishing License transfers: License:

7 (1) It is unlawful for a person to accept transfer of a Standard or Retired Standard Commercial Fishing
8 License for which they are ineligible.

9 ~~(1)~~(2) A Standard or Retired Standard Commercial Fishing License ~~may shall~~ only be transferred if both
10 the transferor and the transferee have no current suspensions or revocations of any Marine Fisheries
11 license privileges. In the event of the death of the transferor, this requirement shall only apply to the
12 transferee.

13 (3) For purposes of effecting transfers under this Paragraph:

14 (A) in addition to those family members defined in G.S. 113-168(3a), "immediate family" shall
15 mean grandparents, grandchildren, and legal guardians of an individual;

16 (B) "business" shall mean corporations and limited liability companies that have been
17 registered with the Secretary of State; and

18 (C) "owner" shall mean owner, shareholder, or manager of a business.

19 ~~(2)~~(4) At the time of the transfer of a Standard or Retired Standard Commercial Fishing License, the
20 transferor ~~must shall~~ indicate the retainment or transfer of the landings history associated with that
21 Standard or Retired Standard Commercial Fishing License. The transferor may retain a landings
22 history only if the transferor holds an additional Standard or Retired Standard Commercial Fishing
23 License. Transfer of a landings history is all or none.

24 ~~(3)~~(5) To transfer a Standard or Retired Standard Commercial Fishing License, the following information
25 is required:

26 (A) information on the transferee as set out forth in 15A-NCAC 03O-0101; Rule .0101 of this
27 Section;

28 (B) notarization of the ~~current license holder's~~ transferor's and the transferee's signatures on a
29 the transfer form provided by the Division; application; and

30 ~~(C)~~ when the transferee is a non resident, a written certified statement from the applicant
31 listing any violations involving marine and estuarine resources during the previous three
32 years;

33 ~~(D)~~(C) when if the transferor is retiring from commercial fishing, the transferor must submit
34 evidence showing that such retirement has in fact occurred, for example, which may
35 include, but is not limited to, evidence of the transfer of all licensee's the transferor's
36 Standard Commercial Fishing Licenses, sale of all the licensee's transferor's registered
37 vessels, or discontinuation of any active involvement in commercial fishing.

1 Properly completed transfer forms must be returned to Division Offices by mail or in person.

2 (4)(6) The Standard or Retired Standard Commercial Fishing License ~~which that~~ is being transferred ~~must~~
3 shall be surrendered to the Division at the time of the transfer application.

4 (5)(7) Fees:

5 (A) ~~Transferee-The transferee must shall~~ pay a replacement fee ~~of ten dollars (\$10.00), as set~~
6 forth in Rule .0107 of this Section.

7 (B) ~~Transferee-The transferee must shall~~ pay the differences in fees as specified in G.S. 413-
8 ~~168.2 (e)-113-168.2(e) or G.S. 413-168.3 (b)-113-168.3(b) when if~~ the transferee ~~who is a~~
9 non resident is being transferred a resident Standard or Retired Standard Commercial
10 Fishing License-non-resident.

11 (C) ~~Transferee-The transferee must shall~~ pay the differences in fees as specified in G.S. 413-
12 ~~168.2 (e)-113-168.2(e) when if~~ the license to be transferred is a Retired Standard
13 Commercial Fishing License and the transferee is less than 65 years old.

14 (8) Transfer of Standard or Retired Standard Commercial Fishing License for a Business:

15 (A) An individual holding a Standard or Retired Standard Commercial Fishing License may
16 transfer their license to a business in which the license holder is also an owner of the
17 business in accordance with application requirements as set forth in Rule .0101(a) of this
18 Section.

19 (B) If a business is dissolved, the business may transfer the license or licenses of the business
20 to an individual owner of the dissolved business. A dissolved business holding multiple
21 licenses may transfer one license or multiple licenses to one owner or multiple owners or
22 any combination thereof. A notarized statement showing agreement for the transfer of all
23 owners of the business is required to complete this transaction.

24 (C) If a business is sold, the business may transfer the license or licenses of the business to the
25 successor business at the time of sale.

26 (D) If an owner leaves the business, any license originally owned by that owner may be
27 transferred back to themselves as an individual at the time the owner leaves the corporation.
28 A notarized statement showing agreement for the transfer of all owners of the business is
29 required to complete this transaction.

30 (6)(9) Transfer of Standard or Retired Standard Commercial Fishing License for a Deceased
31 Licensees:Licensee:

32 (A) ~~When the deceased licensee's~~ If an immediate surviving family member(s) member of the
33 deceased licensee is eligible to hold the deceased-s-deceased licensee's Standard
34 Commercial Fishing Licenses-License or Retired Standard Commercial Fishing License,
35 the Administrator/Executor must give written notification within six months after the
36 Administrator/Executor qualifies under G.S.G.S. 28A to the Morehead City Office of the

1 Division of Marine Fisheries of the request to transfer the ~~deceased~~ deceased's license
2 to the estate Administrator/Executor.

3 (B) A transfer to the Administrator/Executor shall be made according to the provisions of
4 Subparagraphs ~~(e) (2) — (e) (4) (2)~~ through (4) of this ~~Rule~~ Paragraph. The
5 Administrator/Executor must provide a copy of the deceased licensee's death certificate, a
6 copy of the certificate of ~~administration~~ administration, and a list of eligible immediate
7 family members to the ~~Morehead City Office of the Division of Marine Fisheries~~ Division.

8 (C) The Administrator/Executor ~~may~~ shall only transfer a license in the
9 Administrator/Executor name on behalf of the estate to ~~a~~ an eligible surviving family
10 member. The surviving family member transferee ~~may~~ shall only transfer the license to a
11 third party purchaser of the deceased licensee's fishing vessel. Transfers shall be made
12 according to the provisions of Subparagraphs ~~(e) 2 — (e) (4) (2)~~ through (4) of this
13 ~~Rule~~ Paragraph.

14 ~~(d) Transfer forms submitted without complete and required information shall be deemed incomplete and will not be~~
15 ~~considered further until resubmitted with all required information.~~

16 ~~(e) It is unlawful for a person to accept transfer of a Standard or Retired Standard Commercial Fishing License for~~
17 ~~which they are ineligible.~~

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19 *History Note:* Authority G.S. 113-134; 113-168.1; 113-168.2; 113-168.3; 113-168.6; 113-182; 143B-289.52;
20 Eff. January 1, 1991;
21 Amended Eff. March 1, 1994;
22 Temporary Amendment Eff. August 1, 1999; July 1, 1999;
23 Amended Eff. August 1, 2000;
24 Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).