

RULES REVIEW COMMISSION STAFF OPINION

Please Note: This communication is either 1) only the recommendation of an RRC staff attorney as to action that the attorney believes the Commission should take on the cited rule at its next meeting, or 2) an opinion of that attorney as to some matter concerning that rule. The agency and members of the public are invited to submit their own comments and recommendations (according to RRC rules) to the Commission.

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03Q .0101-.0109

RECOMMENDED ACTION:

- Approve, but note staff's comment
- X Object, based on:
 - X Lack of statutory authority
 - Unclear or ambiguous
 - Unnecessary
 - X Failure to comply with the APA - 15A NCAC 03Q .0103, .0107, and .0109
 - Extend the period of review

COMMENT:

Staff recommends objection to the Rules of this Section for lack of statutory authority as the Marine Fisheries Commission did not jointly readopt these Rules with the Wildlife Resources Commission as required by G.S. 113-332.

Staff recommends objection to these Rules as the Marine Fisheries Commission did not jointly readopt these Rules as required by concurrent authority According to 15A NCAC 03Q .0101, as submitted by the Marine Fisheries Commission, these Rules pertain to “coastal fishing waters, inland fishing waters, and joint fishing waters... and shall be adopted jointly by both the Marine Fisheries Commission and the Wildlife Resources Commission.” G.S. 113-129 defines these terms as follows:

- (4) **Coastal Fishing Waters.** - The Atlantic Ocean; the various coastal sounds; and estuarine waters up to the dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission. Except as provisions in this Subchapter or changes in the agreement between the Marine Fisheries Commission and the Wildlife Resources
- (9) **Inland Fishing Waters.** - All inland waters except private ponds; and all waters connecting with or tributary to coastal sounds or the ocean extending inland or upstream from:

- a. The dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission; or
 - b. North Carolina's boundary with another state.
- (10a) **Joint Fishing Waters.** - Those coastal fishing waters in which are found a significant number of freshwater fish, as agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission in accordance with G.S. 113-132(e).

G.S. 113-132(d) and (e) provides joint authority for the Marine Fisheries Commission and the Wildlife resources Commission as follows:

- (d) To the extent that the grant of jurisdiction to the Marine Fisheries Commission and the Wildlife Resources Commission may overlap, the Marine Fisheries Commission and the Wildlife Resources Commission are granted concurrent jurisdiction. In cases of conflict between actions taken or regulations promulgated by either agency, as respects the activities of the other, pursuant to the dominant purpose of such jurisdiction, the Marine Fisheries Commission and the Wildlife Resources Commission are empowered to make agreements concerning the harmonious settlement of such conflict in the best interests of the conservation of the marine and estuarine and wildlife resources of the State. In the event the Marine Fisheries Commission and the Wildlife Resources Commission cannot agree, the Governor is empowered to resolve the differences.
- (e) Those coastal fishing waters in which are found a significant number of freshwater fish, as agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission, may be denominated joint fishing waters. These waters are deemed coastal fishing waters from the standpoint of laws and regulations administered by the Department and are deemed inland fishing waters from the standpoint of laws and regulations administered by the Wildlife Resources Commission. The Marine Fisheries Commission and the Wildlife Resources Commission may make joint regulations governing the responsibilities of each agency and modifying the applicability of licensing and other regulatory provisions as may be necessary for rational and compatible management of the marine and estuarine and wildlife resources in joint fishing waters.

Staff also recommends objection to 15A NCAC 03Q .0103, .0107, and .0109 for failure to comply with the Administrative Procedure Act as staff believes that substantial changes have been made following publication in the North Carolina Register. G.S. 150B-21.2(g) reads as follows:

- (g) Adoption. - An agency shall not adopt a rule until the time for commenting on the proposed text of the rule has elapsed and shall not adopt a rule if more than 12 months have elapsed since the end of the time for commenting on the proposed text of the rule. Prior to adoption, an agency shall review any fiscal note that has been prepared for the proposed rule and consider any public comments received in connection with the proposed rule or the fiscal note. An agency shall not adopt a rule that differs substantially from the text of a proposed rule published in the North

Carolina Register unless the agency publishes the text of the proposed different rule in the North Carolina Register and accepts comments on the proposed different rule for the time set in subsection (f) of this section.

An adopted rule differs substantially from a proposed rule if it does one or more of the following:

- (1) Affects the interests of persons who, based on the proposed text of the rule published in the North Carolina Register, could not reasonably have determined that the rule would affect their interests.
- (2) Addresses a subject matter or an issue that is not addressed in the proposed text of the rule.
- (3) Produces an effect that could not reasonably have been expected based on the proposed text of the rule.

It is staff's opinion that the following changes are substantial in that they produce an effect that could not reasonably have been expected based on the proposed text in the North Carolina Register:

- In 15A NCAC 03Q .0103(b), the Marine Fisheries Commission has expanded the list of fish that are under the jurisdiction of the Marine Fisheries Commission from 3 (the spotted seatrout, weakfish, and striped bass) to 11 (the American shad, brown bullhead, flounder, hickory shad, red drum, spotted seatrout, striped bass, white catfish, white perch, yellow bullhead, and yellow perch.) As published, these newly added fish were under the jurisdiction of the Wildlife Resources Commission.

As published in the North Carolina Register	As submitted to RRC
The regulations and licensing of fishing in coastal fishing waters is under the jurisdiction of the Marine Fisheries Commission; except that inland game fish (exclusive of spotted seatrout, weakfish, and striped bass) are subject to regulations by the Wildlife Resources Commission in coastal fishing waters.	<p>(b) The regulations and licensing of regulation of fishing in coastal fishing waters and licensing of fishing in coastal fishing waters is waters, in accordance with G.S. 113-174.1, shall be under the jurisdiction of the Marine Fisheries Commission; Commission, except that including for the following inland game fish as defined in G.S. 113-129(10) and as set forth in 15A NCAC 10C .0301 that are of commercial importance:(exclusive of spotted seatrout, weakfish, and striped bass) are subject to regulations by the Wildlife Resources Commission in coastal fishing waters.</p> <ol style="list-style-type: none"> (1) American shad; (2) brown bullhead; (3) flounder, including Gulf flounder, southern flounder, and summer flounder; (4) hickory shad; (5) red drum; (6) spotted seatrout; (7) striped bass, including morone hybrids; (8) white catfish; (9) white perch; (10) yellow bullhead; and (11) yellow perch. <p>The Marine Fisheries Commission, pursuant to G.S. 113-129(10), concurs with inland game fish as set forth in 15A NCAC 10C .0301 as of August 1, 2020, excluding the species in this Paragraph of this Rule. Rule 15A NCAC</p>

	10C .0301 is hereby incorporated by reference not including subsequent amendments.
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- In 15A NCAC 03Q .0107, the Marine Fisheries Commission removed the hook and line limits on the American and Hickory Shad in joint fishing waters following publication in the North Carolina Register.

As published in the North Carolina Register	As submitted to RRC
Shad: It is unlawful to possess more than 10 American shad or hickory shad, in the aggregate, per person per day taken by hook and-line.	(4) Shad: It is unlawful to possess more than 10 American shad or hickory shad, in the aggregate, per person per day taken by hook and-line.

- In 15A NCAC 03Q .0109, it appears as though changes were made after publication in the North Carolina Register that affect the opening and closing of seasons regarding the striped bass in the Albemarle Sound Management Area, specifically as it pertains to the inland waters and tributaries under the jurisdiction of the Wildlife Resources Commission.

As published in the North Carolina Register	As submitted to RRC
The Marine Fisheries and Wildlife Resources Commissions shall implement their respective striped bass management actions for recreational fishing pursuant to their respective rule-making powers. To preserve jurisdictional authority of each Commission, the following means are established through which management measures can be implemented by a single instrument in the following management areas: (1) In the Roanoke River Management Area, the exclusive authority to open and close seasons and areas, and establish size and creel limits whether inland or joint fishing waters shall be vested in the Wildlife Resources Commission. An instrument closing any management area in joint waters shall operate as and shall be a jointly issued instrument opening or closing seasons or areas to harvest in the Roanoke River management area. (2) In the Albemarle Sound Management Area, the exclusive authority to open and close seasons and areas and establish size and creel limits, whether coastal or joint fishing waters shall be vested in the Marine Fisheries Commission. The season shall close by proclamation if the quota is about to be exceeded. In the Albemarle Sound Management Area administered by the Marine Fisheries Commission, a proclamation affecting the harvest in joint and coastal waters, excluding the Roanoke River Management Area, shall automatically be implemented and effective as a Wildlife Resources Commission action in the inland waters and tributaries to the waters affected.	The Marine Fisheries Commission and the Wildlife Resources Commissions Commission shall implement their respective estuarine striped bass management actions for recreational fishing pursuant to their respective rule-making powers, powers and the North Carolina Estuarine Striped Bass Fishery Management Plan. To preserve jurisdictional authority of each Commission, the following means are established through which management measures can shall be implemented by a single instrument in each of the following management areas: (1) In in the Roanoke River Management Area, the exclusive authority to open and close seasons and areas, areas and establish size and creel limits-limits, whether inland or joint fishing waters waters, shall be vested in the Wildlife Resources Commission. An instrument closing any management area in joint waters shall operate as and shall be a jointly issued instrument opening or closing seasons or areas to harvest in the Roanoke River management area. (2) In in the Albemarle Sound Management Area, the exclusive authority to open and close seasons and areas and establish size and creel limits, whether coastal or joint fishing waters-waters, shall be vested in the Marine Fisheries Commission. The season shall close by proclamation if the quota set by the

	<p>North Carolina Estuarine Striped Bass Fishery Management Plan is about projected to be exceeded. taken. In the Albemarle Sound Management Area administered by the Marine Fisheries Commission, a proclamation affecting the harvest in joint and coastal waters, excluding the Roanoke River Management Area, shall automatically be implemented and effective as a Wildlife Resources Commission action in the inland waters and tributaries to the waters affected.</p>
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§ 113-129. Definitions relating to resources.

The following definitions and their cognates apply in the description of the various marine and estuarine and wildlife resources:

- (1) Repealed by Session Laws 1979, c. 830, s. 1.
- (1a) Animals. - Wild animals, except when the context clearly indicates a contrary interpretation.
- (1b) Big Game. - Bear, wild turkey, and white-tailed deer.
- (1c) Birds. - Wild birds, except when the context clearly indicates a contrary interpretation.
- (1d) Boating and Fishing Access Area. - An area providing access to public waters and which is owned, allocated to, leased, controlled, or managed by the Wildlife Resources Commission.
- (1e) Bushel. - A dry measure containing 2,150.42 cubic inches.
- (1f) Cervid or Cervidae. - All animals in the Family Cervidae (elk and deer).
- (2) Coastal Fisheries. - Any and every aspect of cultivating, taking, possessing, transporting, processing, selling, utilizing, and disposing of fish taken in coastal fishing waters, whatever the manner or purpose of taking, except for the regulation of inland game fish in coastal fishing waters which is vested in the Wildlife Resources Commission; and all such dealings with fish, wherever taken or found, by a person primarily concerned with fish taken in coastal fishing waters so as to be placed under the administrative supervision of the Department. Provided, that the Department is given no authority over the taking of fish in inland fishing waters. Except as provisions in this Subchapter or in regulations of the Marine Fisheries Commission authorized under this Subchapter may make such reference inapplicable, all references in statutes, regulations, contracts, and other legal or official documents to commercial fisheries apply to coastal fisheries.
- (3) Coastal Fishing. - All fishing in coastal fishing waters. Except as provisions in this Subchapter or in regulations of the Marine Fisheries Commission authorized under this Subchapter may make such references inapplicable, all references in statutes, regulations, contracts, and other legal or official documents to commercial fishing apply to coastal fishing.
- (4) Coastal Fishing Waters. - The Atlantic Ocean; the various coastal sounds; and estuarine waters up to the dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission. Except as provisions in this Subchapter or changes in the agreement between the Marine Fisheries Commission and the Wildlife Resources Commission may make such reference inapplicable, all references in statutes, regulations, contracts, and other legal or official documents to commercial fishing waters apply to coastal fishing waters.
- (5) Crustaceans. - Crustacea, specifically including crabs, lobster, and shrimp.
- (5a) Deer. - White-tailed deer (*Odocoileus virginianus*), except when otherwise specified in this Chapter.
- (5b) Farmed Cervid. - Any member of the Cervidae family, other than white-tailed deer, elk, mule deer, or black-tailed deer, that is bought and sold for commercial purposes.

- (5c) Feral Swine. - Free-ranging mammals of the species *Sus scrofa*.
- (6) Fisheries Resources. - Marine and estuarine resources and such wildlife resources as relate to fish.
- (7) Fish; Fishes. - All finfish; all shellfish; and all crustaceans.
- (7a) Fur-bearing Animals. - Beaver, mink, muskrat, nutria, otter, skunk, and weasel; bobcat, opossum, and raccoon when lawfully taken with traps.
- (7b) Game. - Game animals and game birds.
- (7c) Game Animals. - Bear, fox, rabbit, squirrel, white-tailed deer, and, except when trapped in accordance with provisions relating to fur-bearing animals, bobcat, opossum, and raccoon.
- (7d) Game Birds. - Migratory game birds and upland game birds.
- (8) Game Fish. - Inland game fish and such other game fish in coastal fishing waters as may be regulated by the Department.
- (8a) Game Lands. - Lands owned, allocated to, leased, controlled, or cooperatively managed by the Wildlife Resources Commission.
- (9) Inland Fishing Waters. - All inland waters except private ponds; and all waters connecting with or tributary to coastal sounds or the ocean extending inland or upstream from:
 - a. The dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission; or
 - b. North Carolina's boundary with another state.
- (10) Inland Game Fish. - Those species of freshwater fish, wherever found, and migratory saltwater fish, when found in inland fishing waters, as to which there is an important element of sport in taking and which are denominated as game fish in the regulations of the Wildlife Resources Commission. No species of fish of commercial importance not classified as a game fish in commercial fishing waters as of January 1, 1965, may be classified as an inland game fish in coastal fishing waters without the concurrence of the Marine Fisheries Commission.
- (10a) Joint Fishing Waters. - Those coastal fishing waters in which are found a significant number of freshwater fish, as agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission in accordance with G.S. 113-132(e).
- (11) Marine and Estuarine Resources. - All fish, except inland game fish, found in the Atlantic Ocean and in coastal fishing waters; all fisheries based upon such fish; all uncultivated or undomesticated plant and animal life, other than wildlife resources, inhabiting or dependent upon coastal fishing waters; and the entire ecology supporting such fish, fisheries, and plant and animal life.
- (11a) Migratory Birds. - All birds, whether or not raised in captivity, included in the terms of conventions between the United States and any foreign country for the protection of migratory birds and the Migratory Bird Treaty Act, as defined and listed in Part 10 of Title 50 of the Code of Federal Regulations.
- (11b) Migratory Game Birds. - Those migratory birds for which open seasons are prescribed by the United States Department of the Interior and belonging to the following families:
 - a. Anatidae (wild ducks, geese, brant, and swans);

- b. Columbidae (wild doves and pigeons);
- c. Gruidae (little brown cranes);
- d. Rallidae (rails, coots, and gallinules); and
- e. Scolopacidae (woodcock and snipe).

The Wildlife Resources Commission is authorized to modify this definition from time to time by regulations only as necessary to keep it in conformity with governing federal laws and regulations pertaining to migratory game birds.

- (11c) Migratory Waterfowl; Waterfowl. - Those migratory birds for which open seasons are prescribed by the United States Department of the Interior and belonging to the Family Anatidae (wild ducks, geese, brant, and swans).
- (11d) Mountain Heritage Trout Waters. - Those waters that run through or are adjacent to a city that has been designated by the Wildlife Resources Commission as a Mountain Heritage Trout City pursuant to G.S. 113-273(e).
- (11e) Nongame Animals. - All wild animals except game and fur-bearing animals.
- (11f) Nongame Birds. - All wild birds except game birds.
- (12) Nongame Fish. - All fish found in inland fishing waters other than inland game fish.
- (12a) Repealed by Session Laws 2004-160, s. 1, effective August 2, 2004.
- (12b) Repealed by Session Laws 2004-160, s. 1, effective August 2, 2004.
- (12c) Overfished. - The condition of a fishery that occurs when the spawning stock biomass of the fishery is below the level that is adequate for the recruitment class of a fishery to replace the spawning class of the fishery.
- (12d) Overfishing. - Fishing that causes a level of mortality that prevents a fishery from producing a sustainable harvest.
- (13) Private Pond. - A body of water arising within and lying wholly upon a single tract of privately owned land, from which fish cannot escape and into which fish cannot enter from public fishing waters at any time, except that all publicly owned ponds and lakes are classified as public fishing waters. In addition, the private owners of abutting tracts of land on which a pond not exceeding 10 acres is or has been established may by written agreement cooperate to maintain that pond as a private pond if it otherwise meets the requirements of this definition. If a copy of the agreement has been filed with the Wildlife Resources Commission and the pond in fact meets the requirements of this definition, it attains the status of private pond either 60 days after the agreement has been filed or upon the Commission's approving it as private, whichever occurs first.
- (13a) Public Fishing Waters; Public Waters. - Coastal fishing waters, inland fishing waters, or both.
- (13b) Public Hunting Grounds. - Privately owned lands open to the public for hunting under the terms of a cooperative agreement between the owner and the Wildlife Resources Commission.
- (13c) Public Mountain Trout Waters. - Those waters designated by the Wildlife Resources Commission that are managed and regulated to sustain a mountain trout fishery.
- (13d) Raptor. - A migratory bird of prey authorized under federal law and regulations for the taking of quarry by falconry.

- (14) Shellfish. - Mollusca, specifically including oysters, clams, mussels, and scallops.
- (14a) Sustainable harvest. - The amount of fish that can be taken from a fishery on a continuing basis without reducing the stock biomass of the fishery or causing the fishery to become overfished.
- (14b) Upland Game Birds. - Grouse, pheasant, quail, and wild turkey.
- (15) Wild Animals. - Game animals; fur-bearing animals; feral swine; and all other wild mammals except marine mammals found in coastal fishing waters. In addition, this definition includes members of the following groups which are on the federal list of endangered or threatened species: wild amphibians, wild reptiles except sea turtles inhabiting and depending upon coastal fishing waters, and wild invertebrates except invertebrates declared to be pests under the Structural Pest Control Act of North Carolina of 1955 or the North Carolina Pesticide Law of 1971. Nothing in this definition is intended to abrogate G.S. 113-132(c), confer jurisdiction upon the Wildlife Resources Commission as to any subject exclusively regulated by any other agency, or to authorize the Wildlife Resources Commission by its regulations to supersede valid provision of law or regulation administered by any other agency.
- (15a) Wild Birds. - Migratory game birds; upland game birds; and all undomesticated feathered vertebrates. The Wildlife Resources Commission may by regulation list specific birds or classes of birds excluded from the definition of wild birds based upon the need for protection or regulation in the interests of conservation of wildlife resources.
- (15b) Repealed by Session Laws 2011-369, s. 2, effective October 1, 2011.
- (16) Wildlife. - Wild animals; wild birds; all fish found in inland fishing waters; and inland game fish. Unless the context clearly requires otherwise, the definitions of wildlife, wildlife resources, wild animals, wild birds, fish, and the like are deemed to include species normally wild, or indistinguishable from wild species, which are raised or kept in captivity. Nothing in this definition is intended to abrogate the exclusive authority given the Department of Agriculture and Consumer Services to regulate the production and sale of pen-raised quail for food purposes.
- (16a) Wildlife Refuge. - An area of land or waters owned, leased, controlled, or cooperatively managed by the Wildlife Resources Commission which is closed to the taking of some or all species of wildlife.
- (17) Wildlife Resources. - All wild birds; all wild mammals other than marine mammals found in coastal fishing waters; all fish found in inland fishing waters, including migratory saltwater fish; all inland game fish; all uncultivated or undomesticated plant and animal life inhabiting or depending upon inland fishing waters; waterfowl food plants wherever found, except that to the extent such plants in coastal fishing waters affect the conservation of marine and estuarine resources the Department is given concurrent jurisdiction as to such plants; all undomesticated terrestrial creatures; and the entire ecology supporting such birds, mammals, fish, plant and animal life, and creatures.
- (18) Wildlife Resources Commission Property. - All lands, game lands, wildlife refuges, artificial constructions in boating and fishing access areas, and all other

property owned, allocated to, leased, controlled, or cooperatively managed and designated for public use by the Wildlife Resources Commission. (1965, c. 957, s. 2; 1973, c. 1262, ss. 18, 28; 1977, c. 771, s. 4; 1979, c. 830, s. 1; 1979, 2nd Sess., c. 1285; 1987, c. 641, ss. 5, 6; 1991, c. 317, ss. 2, 3; c. 761, ss. 38, 39; 1993, c. 515, s. 6; 1997-142, ss. 2, 3; 1997-261, s. 80; 1997-400, s. 3.5; 1999-339, ss. 1-3; 2003-344, ss. 1-4; 2004-160, ss. 1, 2; 2009-89, s. 2; 2011-369, s. 2; 2013-413, s. 37(a); 2019-204, s. 2.)

§ 113-132. Jurisdiction of fisheries agencies.

(a) The Marine Fisheries Commission has jurisdiction over the conservation of marine and estuarine resources. Except as may be otherwise provided by law, it has jurisdiction over all activities connected with the conservation and regulation of marine and estuarine resources, including the regulation of aquaculture facilities as defined in G.S. 106-758 which cultivate or rear marine and estuarine resources.

(b) The Wildlife Resources Commission has jurisdiction over the conservation of wildlife resources. Except as may be otherwise provided by law, it has jurisdiction over all activities connected with the conservation and regulation of wildlife resources.

(c) Notwithstanding the provisions of this Article, this Subchapter does not give the Marine Fisheries Commission or the Wildlife Resources Commission jurisdiction over matters clearly within the jurisdiction vested in the Department of Agriculture and Consumer Services, the North Carolina Pesticide Board, the Commission for Public Health, the Environmental Management Commission, or other division of the Department regulating air or water pollution.

(d) To the extent that the grant of jurisdiction to the Marine Fisheries Commission and the Wildlife Resources Commission may overlap, the Marine Fisheries Commission and the Wildlife Resources Commission are granted concurrent jurisdiction. In cases of conflict between actions taken or regulations promulgated by either agency, as respects the activities of the other, pursuant to the dominant purpose of such jurisdiction, the Marine Fisheries Commission and the Wildlife Resources Commission are empowered to make agreements concerning the harmonious settlement of such conflict in the best interests of the conservation of the marine and estuarine and wildlife resources of the State. In the event the Marine Fisheries Commission and the Wildlife Resources Commission cannot agree, the Governor is empowered to resolve the differences.

(e) Those coastal fishing waters in which are found a significant number of freshwater fish, as agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission, may be denominated joint fishing waters. These waters are deemed coastal fishing waters from the standpoint of laws and regulations administered by the Department and are deemed inland fishing waters from the standpoint of laws and regulations administered by the Wildlife Resources Commission. The Marine Fisheries Commission and the Wildlife Resources Commission may make joint regulations governing the responsibilities of each agency and modifying the applicability of licensing and other regulatory provisions as may be necessary for rational and compatible management of the marine and estuarine and wildlife resources in joint fishing waters.

(f) The granting of jurisdiction in this section pertains to the power of agencies to enact regulations and ordinances. Nothing in this section or in G.S. 113-138 is designed to prohibit law-enforcement officers who would otherwise have jurisdiction from making arrests or in any manner enforcing the provisions of this Subchapter. (1965, c. 957, s. 2; 1973, c. 476, s. 128; c. 1262, ss. 18, 28, 38; 1977, c. 771, s. 4; 1979, c. 830, s. 1; 1987, c. 641, s. 5; 1989, c. 281, s. 3; 1997-261, s. 109; 2007-182, s. 2.)

§ 113-134. Rules.

The Marine Fisheries Commission and the Wildlife Resources Commission may, within their jurisdictional limitations imposed by this Article, adopt rules implementing this Subchapter. (1915, c. 84, s. 21; 1917, c. 290, s. 7; C.S., 1878; 1925, c. 168, s. 2; 1935, c. 35; 1945, c. 776; 1953, cc. 774, 1251; 1963, c. 1097, s. 1; 1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1987, c. 827, s. 97.)

§ 113-182. Regulation of fishing and fisheries.

(a) The Marine Fisheries Commission is authorized to authorize, license, regulate, prohibit, prescribe, or restrict all forms of marine and estuarine resources in coastal fishing waters with respect to:

- (1) Time, place, character, or dimensions of any methods or equipment that may be employed in taking fish;
- (2) Seasons for taking fish;
- (3) Size limits on and maximum quantities of fish that may be taken, possessed, bailed to another, transported, bought, sold, or given away.

(b) The Marine Fisheries Commission is authorized to authorize, regulate, prohibit, prescribe, or restrict and the Department is authorized to license:

- (1) The opening and closing of coastal fishing waters, except as to inland game fish, whether entirely or only as to the taking of particular classes of fish, use of particular equipment, or as to other activities within the jurisdiction of the Department; and
- (2) The possession, cultivation, transportation, importation, exportation, sale, purchase, acquisition, and disposition of all marine and estuarine resources and all related equipment, implements, vessels, and conveyances as necessary to implement the work of the Department in carrying out its duties.
- (3) The possession, transportation, importation, exportation, sale, purchase, acquisition, and disposition of all fish taken in the Atlantic Ocean out to a distance of 200 miles from the State's mean low watermark, consistent with the Magnuson Fishery Conservation and Management Act, 16 U.S.C. § 1801, et seq., as amended. (1915, c. 84, s. 21; 1917, c. 290, s. 7; C.S., s. 1878; 1925, c. 168, s. 2; 1935, c. 35; 1945, c. 776; 1953, cc. 774, 1251; 1961, c. 1189, s. 1; 1963, c. 1097, s. 1; 1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1995, c. 507, s. 26.5(c); 1997-400, s. 6.6.)

§ 113-292. Authority of the Wildlife Resources Commission in regulation of inland fishing and the introduction of exotic species.

(a) The Wildlife Resources Commission is authorized to authorize, license, regulate, prohibit, prescribe, or restrict all fishing in inland fishing waters, and the taking of inland game fish in coastal fishing waters, with respect to:

- (1) Time, place, character, or dimensions of any methods or equipment that may be employed in taking fish;
- (2) Seasons for taking fish;
- (3) Size limits on and maximum quantities of fish that may be taken, possessed, bailed to another, transported, bought, sold, or given away.

(b) The Wildlife Resources Commission is authorized to authorize, license, regulate, prohibit, prescribe, or restrict:

- (1) The opening and closing of inland fishing waters, whether entirely or only as to the taking of particular classes of fish, use of particular equipment, or as to other activities within the jurisdiction of the Wildlife Resources Commission; and
- (2) The possession, cultivation, transportation, importation, exportation, sale, purchase, acquisition, and disposition of all inland fisheries resources and all related equipment, implements, vessels, and conveyances as necessary to implement the work of the Wildlife Resources Commission in carrying out its duties.

To the extent not in conflict with provisions enforced by the Department, the Wildlife Resources Commission may exercise the powers conferred in this subsection in coastal fishing waters pursuant to its rule of inland game fish in such waters.

(c) The Wildlife Resources Commission is authorized to make such rules pertaining to the acquisition, disposition, transportation, and possession of fish in connection with private ponds as may be necessary in carrying out the provisions of this Subchapter and the overall objectives of the conservation of wildlife resources.

(c1) The Wildlife Resources Commission is authorized to issue proclamations suspending or extending the hook-and-line season for striped bass in the inland and joint waters of coastal rivers and their tributaries, and the Commission may delegate this authority to the Executive Director. Each proclamation shall state the hour and date upon which it becomes effective, and shall be issued at least 48 hours prior to the effective date and time. A permanent file of the text of all proclamations shall be maintained in the office of the Executive Director. Certified copies of proclamations are entitled to judicial notice in any civil or criminal proceeding.

The Executive Director shall make reasonable effort to give notice of the terms of any proclamation to persons who may be affected by it. This effort shall include press releases to communications media, posting of notices at boating access areas and other places where persons affected may gather, personal communication by agents of the Wildlife Resources Commission, and other measures designed to reach persons who may be affected. Proclamations under this subsection shall remain in force until rescinded following the same procedure established for enactment.

(d) The Wildlife Resources Commission is authorized to authorize, license, regulate, prohibit, prescribe, or restrict anywhere in the State the acquisition, importation, possession, transportation, disposition, or release into public or private waters or the environment of zoological or botanical species or specimens that may threaten the introduction of epizootic disease or may create a danger to or an imbalance in the environment inimical to the conservation of wildlife resources. This subsection is not intended to give the Wildlife Resources Commission the authority to supplant, enact any conflicting rules, or otherwise take any action inconsistent with that of any other State agency acting within its jurisdiction.

(e) It is unlawful for any person to:

- (1) Release or place exotic species of wild animals or wild birds in an area for the purpose of stocking the area for hunting or trapping;
- (2) Release or place species of wild animals or wild birds not indigenous to that area in an area for the purpose of stocking the area for hunting or trapping;
- (3) Take by hunting or trapping any animal or bird released or placed in an area in contravention of subdivisions (1) and (2) of this subsection, except under a permit to hunt or trap which may be issued by the Wildlife Resources

Commission for the purpose of eradicating or controlling the population of any species of wildlife that has been so released or placed in the area. (1965, c. 957, s. 2; 1973, c. 1262, s. 18; 1979, c. 830, s. 1; 1983, cc. 555, 615; 1987, c. 827, s. 98; 1991, c. 104, s. 1; c. 636, s. 8; 2003-344, s. 9.)

§ 143B-289.52. Marine Fisheries Commission - powers and duties.

(a) The Marine Fisheries Commission shall adopt rules to be followed in the management, protection, preservation, and enhancement of the marine and estuarine resources within its jurisdiction, as described in G.S. 113-132, including commercial and sports fisheries resources. The Marine Fisheries Commission shall have the power and duty:

- (1) To authorize, license, regulate, prohibit, prescribe, or restrict all forms of marine and estuarine resources in coastal fishing waters with respect to:
 - a. Time, place, character, or dimensions of any methods or equipment that may be employed in taking fish.
 - b. Seasons for taking fish.
 - c. Size limits on and maximum quantities of fish that may be taken, possessed, bailed to another, transported, bought, sold, or given away.
- (2) To provide fair regulation of commercial and recreational fishing groups in the interest of the public.
- (3) To adopt rules and take all steps necessary to develop and improve mariculture, including the cultivation, harvesting, and marketing of shellfish and other marine resources in the State, involving the use of public grounds and private beds as provided in G.S. 113-201.
- (4) To close areas of public bottoms under coastal fishing waters for such time as may be necessary in any program of propagation of shellfish as provided in G.S. 113-204.
- (5) In the interest of conservation of the marine and estuarine resources of the State, to institute an action in the superior court to contest the claim of title or claimed right of fishery in any navigable waters of the State registered with the Department as provided in G.S. 113-206(d).
- (6) To make reciprocal agreements with other jurisdictions respecting any of the matters governed in this Subchapter as provided by G.S. 113-223.
- (7) To adopt relevant provisions of federal laws and regulations as State rules pursuant to G.S. 113-228.
- (8) To delegate to the Fisheries Director the authority by proclamation to suspend or implement, in whole or in part, a particular rule of the Commission that may be affected by variable conditions as provided in G.S. 113-221.1.
- (9) To comment on and otherwise participate in the determination of permit applications received by State agencies that may have an effect on the marine and estuarine resources of the State.
- (10) To adopt Fishery Management Plans as provided in G.S. 113-182.1, to establish a Priority List to determine the order in which Fishery Management Plans are developed, to establish a Schedule for the development and adoption of each Fishery Management Plan, and to establish guidance criteria as to the contents of Fishery Management Plans.
- (11) To approve Coastal Habitat Protection Plans as provided in G.S. 143B-279.8.

- (12) Except as may otherwise be provided, to make the final agency decision in all contested cases involving matters within the jurisdiction of the Commission.
- (13) To adopt rules to define fishing gear as either recreational gear or commercial gear.
- (b) The Marine Fisheries Commission shall have the power and duty to establish standards and adopt rules:
 - (1) To implement the provisions of Subchapter IV of Chapter 113 as provided in G.S. 113-134.
 - (2) To manage the disposition of confiscated property as set forth in G.S. 113-137.
 - (3) To govern all license requirements prescribed in Article 14A of Chapter 113 of the General Statutes.
 - (4) To regulate the importation and exportation of fish, and equipment that may be used in taking or processing fish, as necessary to enhance the conservation of marine and estuarine resources of the State as provided in G.S. 113-170.
 - (5) To regulate the possession, transportation, and disposition of seafood, as provided in G.S. 113-170.4.
 - (6) To regulate the disposition of the young of edible fish, as provided by G.S. 113-185.
 - (7) To manage the leasing of public grounds for mariculture, including oysters and clam production, as provided in G.S. 113-202.
 - (8) To govern the utilization of private fisheries, as provided in G.S. 113-205.
 - (9) To impose further restrictions upon the throwing of fish offal in any coastal fishing waters, as provided in G.S. 113-265.
 - (10) To regulate the location and utilization of artificial reefs in coastal waters.
 - (11) To regulate the placement of nets and other sports or commercial fishing apparatus in coastal fishing waters with regard to navigational or recreational safety as well as from a conservation standpoint.
- (c) The Commission is authorized to authorize, license, prohibit, prescribe, or restrict:
 - (1) The opening and closing of coastal fishing waters, except as to inland game fish, whether entirely or only as to the taking of particular classes of fish, use of particular equipment, or as to other activities.
 - (2) The possession, cultivation, transportation, importation, exportation, sale, purchase, acquisition, and disposition of all marine and estuarine resources and all related equipment, implements, vessels, and conveyances as necessary to carry out its duties.
- (d) The Commission may adopt rules required by the federal government for grants-in-aid for coastal resource purposes that may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from federal grants-in-aid.
- (d1) The Commission may regulate participation in a fishery that is subject to a federal fishery management plan if that plan imposes a quota on the State for the harvest or landing of fish in the fishery. The Commission may use any additional criteria aside from holding a Standard Commercial Fishing License to develop limited-entry fisheries. The Commission may establish a fee for each license established pursuant to this subsection in an amount that does not exceed five hundred dollars (\$500.00).

(d2) To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid.

(e) The Commission may adopt rules to implement or comply with a fishery management plan adopted by the Atlantic States Marine Fisheries Commission or adopted by the United States Secretary of Commerce pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1801, et seq. Notwithstanding G.S. 150B-21.1(a), the Commission may adopt temporary rules under this subsection at any time within six months of the adoption or amendment of a fishery management plan or the notification of a change in management measures needed to remain in compliance with a fishery management plan.

(e1) A supermajority of the Commission shall be six members. A supermajority shall be necessary to override recommendations from the Division of Marine Fisheries regarding measures needed to end overfishing or to rebuild overfished stocks.

(f) The Commission shall adopt rules as provided in this Chapter. All rules adopted by the Commission shall be enforced by the Department of Environmental Quality.

(g) As a quasi-judicial agency, the Commission, in accordance with Article IV, Section 3 of the Constitution of North Carolina, has those judicial powers reasonably necessary to accomplish the purposes for which it was created.

(h) Social security numbers and identifying information obtained by the Commission or the Division of Marine Fisheries shall be treated as provided in G.S. 132-1.10. For purposes of this subsection, "identifying information" also includes a person's mailing address, residence address, e-mail address, Commission-issued customer identification number, date of birth, and telephone number.

(i) The Commission may adopt rules to exempt individuals who participate in organized fishing events held in coastal or joint fishing waters from recreational fishing license requirements for the specified time and place of the event when the purpose of the event is consistent with the conservation objectives of the Commission. (1997-400, ss. 2.1, 2.2; 1997-443, s. 11A.123; 1998-217, s. 18(a); 1998-225, ss. 1.3, 1.4, 1.5; 2001-474, s. 32; 2003-154, s. 3; 2004-187, ss. 7, 8; 2006-255, ss. 11.2, 12; 2012-190, s. 5; 2012-200, s. 17; 2013-360, ss. 14.8(v), 14.8(w); 2015-241, s. 14.30(u); 2017-10, s. 2.1(b).)

1 15A NCAC 03Q .0101 is readopted with changes as published in 35:07 NCR 764 as follows:

2
3 **SUBCHAPTER 03Q - JURISDICTION OF AGENCIES: CLASSIFICATION OF WATERS**

4
5 **SECTION .0100 - GENERAL REGULATIONS: JOINT**

6
7 **15A NCAC 03Q .0101 SCOPE AND PURPOSE**

8 The rules in this Section pertain to the classification of the waters of North Carolina as coastal fishing waters, inland
9 fishing ~~waters-waters,~~ and joint fishing ~~waters. These rules are waters and shall be~~ adopted jointly ~~in accordance with~~
10 ~~G.S. 150B-21.2~~ by ~~both~~ the Marine Fisheries Commission and the Wildlife Resources ~~Commission-Commission due~~
11 ~~to the existence of concurrent jurisdiction, in accordance with G.S. 113-132. These jointly adopted rules shall not~~
12 ~~affect the jurisdiction of the Marine Fisheries Commission or the Wildlife Resources Commission in any matters other~~
13 ~~than those specified in this Section. In addition to the classification of the waters of the state these joint~~ These jointly
14 ~~adopted~~ rules ~~set forth guidelines to may~~ determine ~~which the~~ fishing activities in joint ~~fishing~~ waters ~~that~~ are regulated
15 by the Marine Fisheries ~~Commission and which are regulated-Commission,~~ by the Wildlife Resources
16 ~~Commission-Commission, or by both commissions. Finally, the joint~~ These jointly adopted rules ~~set forth special~~
17 ~~fishing regulations applicable in joint waters that can shall~~ be enforced by ~~officers of the Division of Marine Fisheries~~
18 ~~and the Wildlife Resources Commission, both marine fisheries inspectors and wildlife protectors. These regulations~~
19 ~~do not affect the jurisdiction of the Marine Fisheries Commission and the Wildlife Resources Commission in any~~
20 ~~matters other than those specifically set out.~~

21
22 *History Note: Authority G.S. 113-132; 113-134; 113-182; 113-292; 143B-289.52;*

23 *Eff. January 1, 1991;*

24 *Readopted Eff. April 1, 2022.*

1 15A NCAC 03Q .0102 is readopted with changes as published in 35:07 NCR 764 as follows:

2
3 **15A NCAC 03Q .0102 INLAND FISHING WATERS**

4 (a) Inland fishing waters are ~~all inland waters except private ponds; and all waters connecting with or tributary to~~
5 ~~coastal sounds or the ocean extending inland from the dividing line between coastal fishing waters and inland fishing~~
6 ~~waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission, defined in G.S.~~
7 ~~113-129.~~ All waters ~~which that~~ are tributary to inland fishing waters ~~and which that~~ are not otherwise designated by
8 ~~agreement between the Marine Fisheries Commission and the Wildlife Resources Commission are in rule in~~
9 ~~accordance with G.S. 113-132 shall be~~ inland fishing waters.

10 (b) The regulation and licensing of fishing in inland fishing waters ~~is shall be~~ under the jurisdiction of the Wildlife
11 Resources Commission.

12 (c) ~~Regulations Rules~~ and laws ~~administered by the Wildlife Resources Commission~~ regarding fishing in inland
13 fishing waters ~~administered by the Wildlife Resources Commission are shall be~~ enforced by wildlife ~~enforcement~~
14 ~~officers, protectors.~~

15
16 *History Note: Authority G.S. 113-132; 113-134; 113-182; 113-292; 143B-289.52;*

17 *Eff. January 1, 1991;*

18 *Readopted Eff. April 1, 2022.*

1 15A NCAC 03Q .0103 is readopted with changes as published in 35:07 NCR 764 as follows:

3 **15A NCAC 03Q .0103 COASTAL FISHING WATERS**

4 (a) Coastal fishing waters are the Atlantic Ocean; the various coastal sounds; and estuarine waters up to the dividing
 5 line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and
 6 the Wildlife Resources Commission, defined in G.S. 113-129. All waters which that are tributary to coastal fishing
 7 waters and which that are not otherwise designated by agreement between the Marine Fisheries Commission and the
 8 Wildlife Resources Commission are in rule in accordance with G.S. 113-132 shall be coastal fishing waters.

9 (b) The regulations and licensing of regulation of fishing in coastal fishing waters and licensing of fishing in coastal
 10 fishing waters is waters, in accordance with G.S. 113-174.1, shall be under the jurisdiction of the Marine Fisheries
 11 Commission; Commission, except that including for the following inland game fish as defined in G.S. 113-129(10)
 12 and as set forth in 15A NCAC 10C .0301 that are of commercial importance; (exclusive of spotted seatrout, weakfish,
 13 and striped bass) are subject to regulations by the Wildlife Resources Commission in coastal fishing waters.

14 (1) American shad;

15 (2) brown bullhead;

16 (3) flounder, including Gulf flounder, southern flounder, and summer flounder;

17 (4) hickory shad;

18 (5) red drum;

19 (6) spotted seatrout;

20 (7) striped bass, including morone hybrids;

21 (8) white catfish;

22 (9) white perch;

23 (10) yellow bullhead; and

24 (11) yellow perch.

25 The Marine Fisheries Commission, pursuant to G.S. 113-129(10), concurs with inland game fish as set forth in 15A
 26 NCAC 10C .0301 as of August 1, 2020, excluding the species in this Paragraph of this Rule. Rule 15A NCAC 10C
 27 .0301 is hereby incorporated by reference not including subsequent amendments.

28 (c) Regulations Rules and laws administered by the Marine Fisheries Commission regarding fishing in coastal fishing
 29 waters are shall be enforced by marine fisheries enforcement officers, inspectors. Regulations Rules and laws
 30 regarding inland game fish fish, excluding the species in Paragraph (b) of this Rule, in coastal fishing waters are
 31 waters, including joint fishing waters, shall be enforced by wildlife enforcement officers unless otherwise agreed to
 32 by the Wildlife Resources Commission protectors.

34 *History Note: Authority G.S. 113-132; 113-134; 113-182; 113-292; 143B-289.52;*

35 *Eff. January 1, 1991;*

36 *Readopted Eff. April 1, 2022.*

1 15A NCAC 03Q .0104 is readopted with changes as published in 35:07 NCR 764 as follows:

2
3 **15A NCAC 03Q .0104 JOINT FISHING WATERS**

4 (a) Joint fishing waters are those coastal fishing waters, hereinafter set out, denominated by agreement of defined in
5 G.S. 113-129 and are waters adopted by both the Marine Fisheries Commission and the Wildlife Resources
6 Commission pursuant to G.S. 113-132(e) as joint fishing waters, waters when concurrent jurisdiction exists in
7 accordance with G.S. 113-132. All waters which that are tributary to joint fishing waters and which that are not
8 otherwise designated by agreement between the Marine Fisheries Commission and the Wildlife Resources
9 Commission in rule in accordance with G.S. 113-132 shall be are classified as joint fishing waters. The regulation and
10 licensing of fishing in joint waters shall be as stated in 15A NCAC 3Q .0106.

11 (b) In joint fishing waters the Marine Fisheries Commission and the Wildlife Resources Commission shall implement
12 their respective management actions for hook and line recreational fishing pursuant to their respective rule-making
13 authority in accordance with G.S. 113-132, except as otherwise provided in this Section. Rules and laws regarding
14 fishing in joint fishing waters shall be enforced by both marine fisheries inspectors and wildlife protectors.

15
16 *History Note: Authority G.S. 113-132; 113-134; 113-182; 113-292; 143B-289.52;*
17 *Eff. January 1, 1991;*
18 *Readopted Eff. April 1, 2022.*

1 15A NCAC 03Q .0105 is readopted with changes as published in 35:07 NCR 764-765 as follows:

2
3 **15A NCAC 03Q .0105 POSTING DIVIDING LINES**

4 (a) The dividing lines of all major bodies of water and watercourses ~~which are divided by the agreement of agreed~~
5 ~~upon by~~ the Marine Fisheries Commission and the Wildlife Resources Commission so that portions of the same ~~body~~
6 ~~of water~~ are constituted inland fishing waters, coastal fishing waters, or joint fishing waters shall be marked with signs
7 ~~in so far insofar~~ as may be practicable. ~~Unmarked and undesignated tributaries shall have the same classification as~~
8 ~~the designated waters to which they connect or into which they flow.~~

9 (b) ~~No unauthorized~~ ~~Unauthorized~~ removal or relocation of ~~any such a~~ marker shall have ~~the no~~ effect ~~of changing~~
10 ~~on~~ the classification of any body of water or portion thereof, nor shall any ~~such~~ unauthorized removal or relocation or
11 the absence of ~~any a~~ marker affect the applicability of any regulation pertaining to any ~~such~~ body of water or portion
12 thereof.

13
14 *History Note: Authority G.S. 113-132; 113-134; 113-182; 143B-289.52;*
15 *Eff. January 1, 1991;*
16 *Readopted Eff. April 1, 2022.*

1 15A NCAC 03Q .0106 was proposed for readoption without substantive changes as published in 35:07 NCR 765 but
2 is now repealed as follows:

3
4 **15A NCAC 03Q .0106 APPLICABILITY OF RULES: JOINT WATERS**

5
6 *History Note: Authority G.S. 113-132; 113-134; 143B-289.52;*
7 *Eff. January 1, 1991;*
8 *Amended Eff. July 1, 1999;*
9 *Repealed Eff. April 1, 2022.*

1 15A NCAC 03Q .0107 is readopted with changes as published in 35:07 NCR 765 as follows:

2
3 **15A NCAC 03Q .0107 SPECIAL REGULATIONS: REGULATIONS FOR JOINT FISHING WATERS**

4 In order to To effectively manage all fisheries resources in joint fishing waters and in order to confer enforcement
5 powers on both marine fisheries enforcement officers inspectors and wildlife enforcement officers protectors with
6 respect to certain rules, regulations, the Marine Fisheries Commission and the Wildlife Resources Commission deem
7 it necessary to adopt special rules regulations for joint fishing waters. Such rules supersede This Rule supersedes any
8 inconsistent rules of the Marine Fisheries Commission or the Wildlife Resources Commission that would otherwise
9 be applicable in joint fishing waters under the provisions of 15A NCAC 03Q .0106: Rules of this Section as follows:

10 (1) Striped Bass-Bass:

- 11 (a) It is it shall be unlawful to possess any striped bass or striped bass hybrid that is less than
12 18 inches long (total length).
13 (b) It is it shall be unlawful to possess striped bass or striped bass hybrids between the lengths
14 of 22 and 27 inches (total length) in joint fishing waters of the Central Southern
15 Management Area as designated in 15A NCAC 03R .0201.
16 (c) It is it shall be unlawful to possess striped bass or striped bass hybrids May through
17 September in the joint fishing waters of the Central Southern Management Area and the
18 Albemarle Sound Management Area- Area as designated in 15A NCAC 03R .0201.
19 (d) It is it shall be unlawful to possess striped bass or striped bass hybrids taken from the joint
20 fishing waters of the Cape Fear River.
21 (e) It is it shall be unlawful to possess more than one daily creel limit of striped bass or striped
22 bass hybrids, in the aggregate, per person per day, regardless of the number of management
23 areas fished.
24 (f) Possession-possession of fish shall be assessed for the creel and size limits of the
25 management area in which the individual is found to be fishing, regardless of the size or
26 creel limits for other management areas visited by that individual in a given day.
27 (g) It is it shall be unlawful to engage in net fishing for striped bass or striped bass hybrids in
28 joint fishing waters except as authorized by rules of the Marine Fisheries Commission.

29 (2) Lake Mattamuskeet:

- 30 (a) It is it shall be unlawful to set or attempt to set any gill net in Lake Mattamuskeet canals
31 designated as joint fishing waters.
32 (b) It is it shall be unlawful to use or attempt to use any trawl net or seines in Lake
33 Mattamuskeet canals designated as joint fishing waters.

34 (3) Cape Fear River. It is River: it shall be unlawful to use or attempt to use any net, net stakes-stakes,
35 or electrical fishing device within 800 feet of the dam at Lock No.1 on the Cape Fear River.

36 (4) Shad: It is unlawful to possess more than 10 American shad or hickory shad, in the aggregate, per
37 person per day taken by hook and line.

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History Note: Authority G.S. 113-132; 113-134; 113-182; 113-292; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. July 1, 1993; November 1, 1991;
Temporary Amendment Eff. May 1, 2000;
Amended Eff. July 1, 2008; September 1, 2005; April 1, 2001; August 1, 2000;
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).

1 15A NCAC 03Q .0108 is readopted with changes as published in 35:07 NCR 765 as follows:

2
3 **15A NCAC 03Q .0108 MANAGEMENT RESPONSIBILITY FOR ESTUARINE STRIPED BASS IN**
4 **JOINT FISHING WATERS**

5 (a) The management areas for estuarine striped bass fisheries in coastal North Carolina are designated in 15A NCAC
6 03R .0201.

7 (b) In order to ~~To~~ effectively manage the recreational hook and line harvest in joint fishing waters of the Albemarle
8 Sound-Roanoke River stock of estuarine striped bass, the Marine Fisheries Commission and the Wildlife Resources
9 Commission deem it necessary to establish two management ~~areas;~~ areas: the Albemarle Sound Management Area
10 and the Roanoke River Management Area as designated in 15A NCAC 03R .0201. The Wildlife Resources
11 Commission shall have principal management responsibility for the stock when it is in the joint and inland fishing
12 waters of the Roanoke River Management Area. The Marine Fisheries Commission shall have principal management
13 responsibility for the stock in the coastal, ~~joint-joint,~~ and inland fishing waters of the Albemarle Sound Management
14 Area. The annual quota for recreational harvest of the Albemarle-Roanoke estuarine striped bass stock shall be divided
15 equally between the two management areas. Each commission shall implement management actions for recreational
16 harvest within their respective management areas that ~~will-shall~~ be consistent with the North Carolina Estuarine
17 Striped Bass Fishery Management Plan.

18
19 *History Note: Authority G.S. 113-132; 113-134; 113-182; 113-292;143B-289.52;*
20 *Eff. January 1, 1991;*
21 *Amended Eff. October 1, 2004; September 1, 1991;*
22 *Readopted Eff. April 1, 2022.*

1 15A NCAC 03Q .0109 is readopted with changes as published in 35:07 NCR 766 as follows:

2
3 **15A NCAC 03Q .0109 IMPLEMENTATION OF ESTUARINE STRIPED BASS FISHERY**
4 **MANAGEMENT PLANS: PLAN: RECREATIONAL FISHING**

5 The Marine Fisheries Commission and the Wildlife Resources Commissions-Commission shall implement their
6 respective estuarine striped bass management actions for recreational fishing pursuant to their respective rule-making
7 powers, powers and the North Carolina Estuarine Striped Bass Fishery Management Plan. To preserve jurisdictional
8 authority of each Commission, the following means are established through which management measures can-shall
9 be implemented by a single instrument in each of the following management areas:

- 10 (1) In-in the Roanoke River Management Area, the exclusive authority to open and close seasons and
11 areas, areas and establish size and creel limits-limits, whether inland or joint fishing waters-waters,
12 shall be vested in the Wildlife Resources Commission. An instrument closing any management area
13 in joint waters shall operate as and shall be a jointly issued instrument opening or closing seasons
14 or areas to harvest in the Roanoke River management area.
- 15 (2) In-in the Albemarle Sound Management Area, the exclusive authority to open and close seasons and
16 areas and establish size and creel limits, whether coastal or joint fishing waters-waters, shall be
17 vested in the Marine Fisheries Commission. The season shall close by proclamation if the quota set
18 by the North Carolina Estuarine Striped Bass Fishery Management Plan is about-projected to be
19 exceeded. taken. In the Albemarle Sound Management Area administered by the Marine Fisheries
20 Commission, a proclamation affecting the harvest in joint and coastal waters, excluding the Roanoke
21 River Management Area, shall automatically be implemented and effective as a Wildlife Resources
22 Commission action in the inland waters and tributaries to the waters affected.

23
24 *History Note:* Authority G.S. 113-132; 113-134; 113-182; 113-292; 143B-289.52;
25 Eff. January 1, 1991;
26 Amended Eff. October 1, 2004; September 1, 1991;
27 Readopted Eff. April 1, 2022.