

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03H .0103

**DEADLINE FOR RECEIPT: Friday, April 7, 2017**

**NOTE WELL:** *This request extends several pages. Please be sure you have reached the end of the document.*

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 5-6 – consider revising as follows:*

- (a) It is unlawful to violate the provisions of a proclamation issued pursuant to a rule of the Marine Fisheries Commission, as provided in G.S. 113-221.1.

*Lines 7-9 – consider revising as follows:*

- (b) If specific variable conditions are not set forth in a rule of the Marine Fisheries Commission that grants proclamation authority to the Fisheries Director, the Fisheries Director shall consider the following variable conditions in exercising proclamation authority:

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017

1 15A NCAC 03H .0103 is amended as published in 31:07 NCR 586 as follows:

2  
3 **15A NCAC 03H .0103 PROCLAMATION AUTHORITY OF FISHERIES**  
4 **DIRECTOR PROCLAMATIONS, GENERAL**

5 (a) It is unlawful to violate the provisions of any proclamation issued by the authority of Marine Fisheries Commission  
6 ~~Rule.~~ rule.

7 (b) ~~Unless~~ If specific variable conditions are not set forth in a rule ~~granting of the Marine Fisheries Commission that~~  
8 ~~grants~~ proclamation authority to the Fisheries Director, possible variable conditions ~~triggering the use of the Fisheries~~  
9 ~~Director's proclamation authority~~ may include any of the following:

- 10 (1) compliance with changes mandated by the Fisheries Reform Act and its amendments;
- 11 (2) biological impacts;
- 12 (3) environmental conditions;
- 13 (4) compliance with Fishery Management Plans;
- 14 (5) user conflicts;
- 15 (6) bycatch issues; ~~and~~
- 16 (7) variable spatial ~~distributions~~ distributions; and
- 17 (8) protection of public health related to the public health programs that fall under the authority of the  
18 Marine Fisheries Commission.

19  
20 *History Note: Authority G.S. 113-134; 113-135; 113-182; 113-221.1; 113-221.2; 113-221.3; 143B-289.52;*  
21 *Eff. January 1, 1991;*  
22 *Amended Eff. March 1, 1994; September 1, 1991;*  
23 *Temporary Amendment Eff. July 1, 1999;*  
24 *Amended Eff. May 1, 2017; April 1, 2011; August 1, 2000.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0104

**DEADLINE FOR RECEIPT: Friday, April 7, 2017**

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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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4 – add “net” after “trawl”*

*Line 8 – delete the comma*

*Line 13 – do you mean “and” or “or”? Does the exception apply if either (A) or (B), or only if both (A) and (B)?*

*Lines 25, 28, 31, 33, and 36 – do not capitalize “in”*

*Line 35 – delete “and”*

*Page 2, line 2 – add a comma after “(a)(8)”*

*Page 2, line 4 – delete “Minimum” and capitalize “mesh”*

*Page 2, line 4 – replace “trawls” with “trawl nets”*

*Page 2, line 4 – replace “are provided in” with “shall meet the requirements of”*

*Page 2, line 5 – “may” – what factors or standards govern the exercise of the Director’s discretion? Will the Director always require a reduction in the catch after the Commission “consents”?*

*Page 2, line 8 – replace “trawls” with “trawl nets” and add “net” after “trawl”*

*Page 2, line 9 – delete the comma after “(tailbag)”*

*Page 2, line 10 – delete “always”*

*Page 2, line 12 – add a comma after “and”*

Jason Thomas

Commission Counsel

Date submitted to agency: March 24, 2017

*Page 2, line 20 – replace “a” with “the same” if that is what is meant*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017

1 15A NCAC 03J .0104 is amended as published in 31:07 NCR 586-587 as follows:

2  
3 **15A NCAC 03J .0104 TRAWL NETS**

4 (a) It is unlawful to possess aboard a vessel while using a trawl in ~~internal waters~~ Internal Coastal Waters more than  
5 500 pounds of finfish from December 1 through ~~February 28,~~ March 1, and 1,000 pounds of finfish from March 1-2  
6 through November 30.

7 (b) It is unlawful to use trawl nets:

8 (1) ~~In internal coastal waters, in~~ Internal Coastal Waters, from 9:00 p.m. on Friday through 5:00 p.m.  
9 on Sunday, ~~except that in the areas listed in Subparagraph (b)(5) of this Rule, trawling is prohibited~~  
10 ~~from December 1 through February 28 from one hour after sunset on Friday to one hour before~~  
11 ~~sunrise on Monday; except:~~

12 (A) from December 1 through March 1 from one hour after sunset on Friday to one hour before  
13 sunrise on Monday in the areas listed in Subparagraph (b)(5) of this Rule; and

14 (B) for a holder of a Permit for Weekend Trawling for Live Shrimp in accordance with 15A  
15 NCAC 03O .0503;

16 (2) ~~For~~ for the taking of oysters;

17 (3) ~~In~~ in Albemarle Sound, Currituck Sound, and their tributaries, west of a line beginning on the south  
18 shore of Long Point at a point 36° 02.4910' N – 75° 44.2140' W; running southerly to the north shore  
19 on Roanoke Island to a point 35° 56.3302' N – 75° 43.1409' W; running northwesterly to Caroon  
20 Point to a point 35° 57.2255' N – 75° 48.3324' W;

21 (4) ~~In~~ in the areas described in 15A NCAC 03R .0106, except that the Fisheries Director may, by  
22 proclamation, open the area designated in Item (1) of 15A NCAC 03R .0106 to peeler crab trawling;

23 (5) ~~From~~ from December 1 through ~~February 28~~ March 1 from one hour after sunset to one hour before  
24 sunrise in the following areas:

25 (A) In Pungo River, north of a line beginning on Currituck Point at a point 35° 24.5833' N –  
26 76° 32.3166' W; running southwesterly to Wades Point to a point 35° 23.3062' N – 76°  
27 34.5135' W;

28 (B) In Pamlico River, west of a line beginning on Wades Point at a point 35° 23.3062' N – 76°  
29 34.5135' W; running southwesterly to Fulford Point to a point 35° 19.8667' N – 76°  
30 35.9333' W;

31 (C) In Bay River, west of a line beginning on Bay Point at a point 35° 11.0858' N – 76° 31.6155'  
32 W; running southerly to Maw Point to a point 35° 09.0214' N – 76° 32.2593' W;

33 (D) In Neuse River, west of a line beginning on the Minnesott side of the Neuse River Ferry at  
34 a point 34° 57.9116' N – 76° 48.2240' W; running southerly to the Cherry Branch side of  
35 the Neuse River Ferry to a point 34° 56.3658' N – 76° 48.7110' W; and

36 (E) In New River, all waters upstream of the N.C. Highway 172 Bridge when opened by  
37 proclamation; and

(6) ~~In~~in designated pot areas opened to the use of pots by 15A NCAC 03J .0301(a)(2) and described in 15A NCAC 03R .0107(a)(5), (a)(6), (a)(7), (a)(8) and (a)(9) within an area bound by the shoreline to the depth of six feet.

(c) Minimum mesh sizes for shrimp and crab trawls are ~~presented~~provided in 15A NCAC 03L .0103 and .0202.

(d) The Fisheries Director may, with prior consent of the Marine Fisheries Commission, by proclamation, require bycatch reduction devices or codend modifications in trawl nets to reduce the catch of finfish that do not meet size limits or are unmarketable as individual foodfish by reason of size.

(e) It is unlawful to use shrimp trawls for recreational purposes unless the trawl is marked by attaching to the codend (tailbag), one floating buoy, any shade of hot pink in color, which shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The owner shall always be identified on the buoy by using an engraved buoy or by attaching engraved metal or plastic tags to the buoy. Such identification shall include owner's last name and initials and if a vessel is used, one of the following:

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

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

(f) It is unlawful to use shrimp trawls for the taking of blue crabs in ~~internal waters~~, Internal Coastal Waters, except that it shall be permissible to take or possess blue crabs incidental to shrimp trawling in accordance with the following limitations:

(1) ~~For~~for individuals using shrimp trawls authorized by a Recreational Commercial Gear License, 50 blue ~~crabs~~, crabs per day, not to exceed 100 blue crabs if two or more Recreational Commercial Gear License holders are on ~~board~~, board a vessel; and

(2) ~~For~~for commercial operations, crabs may be taken incidental to lawful shrimp trawl operations provided that the weight of the crabs shall not exceed the greater of:

(A) 50 percent of the total weight of the combined crab and shrimp catch; or

(B) 300 pounds.

(g) The Fisheries Director may, by proclamation, close any area to trawling for specific time periods in order to secure compliance with this Rule.

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

*Eff. February 1, 1991;*

*Amended Eff. August 1, 1998; May 1, 1997; March 1, 1994; February 1, 1992;*

*Temporary Amendment Eff. July 1, 1999;*

*Amended Eff. May 1, 2017; April 1, 2014; April 1, 2009; September 1, 2005; August 1, 2004; August 1, 2000.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03K .0110

**DEADLINE FOR RECEIPT: Friday, April 7, 2017**

**NOTE WELL:** *This request extends several pages. Please be sure you have reached the end of the document.*

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 10-18 – are you incorporating the Model Ordinance by reference? If so, do it explicitly. If not, why is this in the rule?*

*Line 11 – delete “minimum”*

*Line 17 – do you mean “and” or “or” – “or” seems more likely.*

*Lines 14-18 – while such lists are usually helpful, this one seems unnecessary. Consider revising lines 13-18 as follows:*

mislabeled during cultivation, harvesting, processing, storage, or transport.

*Line 19 – replace “of” with “described in” if that is what is meant*

*Line 19 – “may” – what factors or standards govern the exercise of the Director’s discretion? Does the Model Ordinance guide the Director in deciding whether to impose the requirements in (c)?*

*Line 20 – add “the sale or distribution of” after “on”*

*Line 29 – “may” – what factors or standards govern the exercise of the Director’s discretion? Does the Model Ordinance guide the Director in deciding whether to impose the requirements in (c)?*

*Lines 33 and 35 – replace “as specified” with “set forth”*

*Page 2, line 9 – add “tracing” before “shellfish” and delete “to be traced”*

*Page 2, line 10 – delete “implicated”*

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017



1 15A NCAC 03K .0110 is amended with changes as published in 31:07 NCR 587 as follows:

2  
3 **15A NCAC 03K .0110 PUBLIC HEALTH AND CONTROL OF OYSTERS, CLAMS, SCALLOPS**  
4 **SCALLOPS, AND MUSSELS**

5 ~~(a) To protect public health, the Fisheries Director may, by proclamation, impose any or all of the following~~  
6 ~~restrictions on oysters, clams, scallops, and mussels to ensure the sale or distribution of shellfish from approved areas~~  
7 ~~or shellstock dealers as defined in Rule 15A NCAC 18A .0301 and to ensure that shellfish have not been adulterated~~  
8 ~~or mislabeled during cultivation, harvesting, processing, storage and transport, in compliance with the National~~  
9 ~~Shellfish Sanitation Program Guide for Control of Molluscan Shellfish, Section II: Model Ordinance:~~

10 (a) The National Shellfish Sanitation Program Guide for Control of Molluscan Shellfish, Section II: Model Ordinance  
11 (Model Ordinance) includes minimum requirements for the sale or distribution of shellfish from approved areas or  
12 shellstock dealers, as defined in 15A NCAC 18A .0301, and to ensure that shellfish have not been adulterated or  
13 mislabeled during:

14 (1) cultivation;

15 (2) harvesting;

16 (3) processing;

17 (4) storage; and

18 (5) transport.

19 (b) To protect public health and to address variable conditions of the Model Ordinance, the Fisheries Director may,  
20 by proclamation, impose requirements as set forth in Paragraph (c) of this Rule on any of the following:

21 (1) oysters;

22 (2) clams;

23 (3) scallops;

24 (4) mussels;

25 (5) areas used to store shellfish;

26 (6) means and methods to take shellfish;

27 (7) vessels used to take shellfish; and

28 (8) shellstock conveyances as defined in 15A NCAC 18A .0301.

29 (c) Proclamations issued under this Rule may impose any of the following requirements:

30 (1) specify time and temperature controls;

31 (2) specify sanitation requirements to prevent a food safety hazard, as defined in 15A NCAC 18A .0301,  
32 or cross-contamination or adulteration of shellfish;

33 ~~(2)~~(3) specify sanitation control procedures as specified in 21 Code of Federal Regulations (CFR) Part  
34 123.11;

35 ~~(3)~~(4) specify Hazard Analysis Critical Control Point (HACCP) requirements as specified in 21 CFR Part:

36 (A) 123.3 Definitions;

37 (B) 123.6 HACCP Plan;

1 (C) 123.7 Corrective Actions;  
 2 (D) 123.8 Verification;  
 3 (E) 123.9 Records; and  
 4 (F) 123.28 Source Controls;  
 5 ~~(4)(5)~~ specify tagging and labeling requirements;  
 6 ~~(5)(6)~~ implement the National Shellfish Sanitation Program's training requirements for shellfish harvesters  
 7 and certified shellfish dealers;  
 8 ~~(6)(7)~~ require sales records and collection and submission of information to provide a mechanism for  
 9 shellfish product to be traced back to the water body of origin; and  
 10 ~~(7)(8)~~ require implicated product recall and specify recall procedures.  
 11 ~~[21 CFR 123.3 (2015), 123.6-9 (1997), 123.11 (2015), and 123.28 (1997)]~~ 21 CFR 123.3, 123.6-9, 123.11, and 123.28  
 12 are hereby incorporated by ~~reference.~~ reference, including subsequent amendments and editions. A copy of the  
 13 reference materials can be found at [http://www.ecfr.gov/cgi-bin/text-idx?SID=f4cdd666e75f54ccda1d9938f4edd9ab&mc=true&tpl=/ecfrbrowse/Title21/21tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=f4cdd666e75f54ccda1d9938f4edd9ab&mc=true&tpl=/ecfrbrowse/Title21/21tab_02.tpl), free of charge. ~~—A~~  
 14 ~~copy of the CFR in effect on the date of this Rule can be found at <http://portal.ncdenr.org/web/mf/rules-and-regulations>, free of charge.~~  
 15  
 16  
 17 ~~(b)(d)~~ Proclamations issued under this Rule shall suspend appropriate rules or portions of rules under the authority of  
 18 the Marine Fisheries Commission as specified in the proclamation. The provisions of 15A NCAC 03I .0102  
 19 terminating suspension of a rule pending the next Marine Fisheries Commission meeting and requiring review by the  
 20 Marine Fisheries Commission at the next meeting shall not apply to proclamations issued under this Rule.  
 21  
 22 *History Note:* Authority G.S. 113-134; 113-182; 113-201; 113-221.1; 113-221.2; 143B-289.52;  
 23 Eff. April 1, 2014;  
 24 Amended Eff. May 1, 2017.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03K .0201

**DEADLINE FOR RECEIPT: Friday, April 7, 2017**

**NOTE WELL:** *This request extends several pages. Please be sure you have reached the end of the document.*

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 6 – “may” – what factors or standards govern the exercise of the Director’s discretion? Does the Model Ordinance guide the Director in deciding whether to impose the listed restrictions?*

*Line 13 – add “the” before “time”*

*Line 14 – add “the” before “area”*

*Line 15 – add “the” before “means”*

*Line 16 – add “the” before “season”*

*Line 20 – add “the” before “size” and delete “minimum”*

*Line 21 – delete “minimum”*

*Line 23 – add “the” before “quantity” and add “the quantity” before “shall”*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017

1 15A NCAC 03K .0201 is amended as published in 31:07 NCR 588 as follows:

2  
3 **15A NCAC 03K .0201 OPEN SEASON AND POSSESSION LIMIT OYSTER HARVEST**  
4 **MANAGEMENT**

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

6 (b) The Fisheries Director may, by proclamation, ~~close and open the season within the time period stated herein or~~  
7 ~~close and open any of the various waters to the taking of oysters depending on the need to protect small oysters and~~  
8 ~~their habitat, the amount of saleable oysters available for harvest, the number of days harvest is prevented due to~~  
9 ~~unsatisfactory bacteriological samples and weather conditions, and the need to prevent loss of oysters due to~~  
10 ~~parasitic infections and thereby reduce the transmission of parasites to uninfected oysters or other variable~~  
11 ~~conditions and may impose any or all of the following restrictions on the taking of commercial and recreational~~  
12 ~~oyster harvest; oysters:~~

13 (1) ~~Specify days of the week harvesting will be allowed; specify time;~~

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

15 (3) ~~Specify specify means and methods which may be employed in the taking; methods;~~

16 (4) ~~Specify time period; specify season within the period set forth in Paragraph (a) of this Rule;~~

17 (5) ~~Specify the quantity, but shall not exceed possession of more than 50 bushels in a commercial~~  
18 ~~fishing operation; and~~

19 (6) ~~Specify the minimum size limit by shell length, but not less than 2 1/2 inches.~~

20 (5) ~~specify size, but the minimum size specified shall not be less than three inches, except the~~  
21 ~~minimum size specified shall not be less than two and one-half inches to prevent loss of oysters~~  
22 ~~due to predators, pests, or infectious oyster diseases; and~~

23 (6) ~~specify quantity, but shall not exceed possession of more than 20 standard U.S. bushels in a~~  
24 ~~commercial fishing operation per day.~~

25  
26 *History Note: Authority G.S. 113-134; 113-182; 113-201; ~~113-221~~; 113-221.1; 143B-289.52;*

27 *Eff. January 1, 1991;*

28 *Amended Eff. May 1, 2017; October 1, 2008; March 1, 1996; September 1, 1991.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03K .0202

**DEADLINE FOR RECEIPT: Friday, April 7, 2017**

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 8 – replace “and” with “or” if that is what is meant, and delete “or” before “any portion”*

*Line 9 – delete the comma after “graded” and add a comma after “and”*

*Line 12 – add “it was” before “taken”*

*Line 14 – delete “currently”*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017

1 15A NCAC 03K .0202 is amended as published in 31:07 NCR 588 as follows:

2  
3 **15A NCAC 03K .0202 ~~SIZE LIMIT AND CULLING TOLERANCE~~CULLING REQUIREMENTS FOR**  
4 **OYSTERS**

5 (a) It is unlawful to possess oysters which have accumulated dead shell, accumulated oyster cultch material, a shell  
6 length less than that specified by ~~proclamation~~, proclamation issued under the authority of Rule .0201 of this Section,  
7 or any combination thereof that exceeds a ~~40 percent~~ five-percent tolerance limit by volume. In determining whether  
8 the tolerance limit is exceeded, the Fisheries Director and his agents may grade all, or any portion, or any combination  
9 of portions of the entire quantity being graded, and in cases of violations, may seize and return to public bottom or  
10 otherwise dispose of the oysters as authorized by law.

11 (b) All oysters shall be culled ~~by the catcher~~ where harvested and all oysters of less than legal size, accumulated dead  
12 ~~shell-shell~~, and cultch ~~material-material~~ shall be immediately returned to the bottom from which taken.

13 (c) This Rule shall not apply to oysters imported from out-of-state solely for shucking by shucking and packing plants  
14 currently permitted by the ~~Shellfish Sanitation Section of the Division of Environmental Health~~. Division of Marine  
15 Fisheries.

16  
17 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*  
18 *Eff. January 1, 1991;*  
19 *Amended Eff. March 1, 1996; September 1, 1991;*  
20 *Temporary Amendment Eff. July 1, 1999;*  
21 *Amended Eff. May 1, 2017; August 1, 2000.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03K .0302

**DEADLINE FOR RECEIPT: Friday, April 7, 2017**

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 5 – what does “mechanical methods” mean? Is the term well-understood by the regulated public?*

*Line 7 – “may” – what factors or standards govern the exercise of the Director’s discretion? What guides the Director in deciding whether to open or close a season? Are these factors or standards set out in statutes, other rules, or materials incorporated by reference?*

*Line 7 – what “season” is referred to here – the “season for taking of clams by mechanical methods” or the season described in Paragraph (a) of this Rule, or perhaps something else? Please specify.*

*Line 17 – “may” – what factors or standards govern the exercise of the Director's discretion? What guides the Director in deciding whether to open a season? Are these factors or standards set out in statutes, other rules, or materials incorporated by reference?*

*Line 17 – replace the phrase “open to the taking of clams by mechanical methods from public bottom during open seasons” with whatever phrase is applied in line 7, assuring the consistent use of terms.*

*Line 18 – replace “have been opened” with “were open”*

*Line 20 – add “the” to the beginning of this line*

*Line 34 – delete “or all”*

*Lines 36, 37, and page 2, lines 3 and 4 – add “the” after “specify”*

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017



1 15A NCAC 03K .0302 is amended as published in 31:07 NCR 588-589 as follows:

2  
3 **15A NCAC 03K .0302 ~~MECHANICAL HARVEST SEASON~~MECHANICAL HARVEST OF CLAMS**  
4 **FROM PUBLIC BOTTOM**

5 (a) It is unlawful to take, buy, sell, or possess any clams taken by mechanical methods from public bottom unless the  
6 season is open.

7 (b) ~~except that the~~ The Fisheries Director may, by proclamation, open and close the season at any time in the Atlantic  
8 Ocean and only ~~between from~~ December 1 through March 31 in Internal Coastal Waters. ~~internal waters for the use of~~  
9 ~~mechanical clam harvesting gear. The Fisheries Director is further empowered to impose any or all of the following~~  
10 ~~restrictions:~~

11 (1) ~~specify number of days;~~

12 (2) ~~specify areas;~~

13 (3) ~~specify time period;~~

14 (4) ~~specify quantity or size; and~~

15 (5) ~~specify means/methods. Any proclamation specifying means or methods must be approved by the~~  
16 ~~Marine Fisheries Commission prior to issuance.~~

17 ~~(b)(c)~~ The Fisheries Director may, by proclamation, open to the taking of clams by mechanical methods from public  
18 bottom during open seasons only areas that have been opened at any time from January 1979 through September 1988  
19 in:

20 (1) Newport, North, White Oak, and New rivers;

21 (2) Core and Bogue sounds;

22 (3) the Intracoastal Waterway north of "BC" Marker at Topsail Beach; and

23 (4) the Atlantic Ocean.

24 ~~in Core and Bogue Sounds, Newport, North, White Oak and New Rivers and the Intracoastal Waterway north of "BC"~~  
25 ~~Marker at Topsail Beach which have been opened at any time from January, 1979, through September, 1988, to the~~  
26 ~~harvest of clams by mechanical methods. The Fisheries Director may, by proclamation, open the Atlantic Ocean and~~  
27 ~~the area or any portion of the area in Pamlico Sound bounded by a line beginning on Portsmouth Island at a point 35°~~  
28 ~~01.5000' N 76° 06.0000' W; running northerly to a point 35° 06.0000' N 76° 06.0000' W; running westerly to a~~  
29 ~~point 35° 06.0000' N 76° 10.0000' W; running southerly to a point 35° 01.5000' N 76° 10.0000' W; running easterly~~  
30 ~~to the point of beginning to the harvest of clams by mechanical methods. Other areas opened for purposes as set out~~  
31 ~~in 15A NCAC 03K .0301(b) shall open only for those purposes. A list of areas as described in this Paragraph is~~  
32 ~~available upon request at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC~~  
33 ~~28557.~~

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

36 (1) specify time;

37 (2) specify means and methods;

1           (3)       specify size; and

2           (4)       specify quantity.

3

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

5                   *Eff. January 1, 1991;*

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

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

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03L .0102

**DEADLINE FOR RECEIPT: Friday, April 7, 2017**

**NOTE WELL:** *This request extends several pages. Please be sure you have reached the end of the document.*

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 6 – add a comma after “pots” and replace the “and” with “or” two times, if this is what is meant*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017

1 15A NCAC 03L .0102 is amended as published in 31:07 NCR 589 as follows:

2  
3 **15A NCAC 03L .0102 WEEKEND SHRIMPING PROHIBITED**

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

5 (1) in the Atlantic Ocean;~~or~~

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

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; ~~113-221~~; 143B-289.52;*

11 *Eff. January 1, 1991;*

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

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03M .0522

**DEADLINE FOR RECEIPT: Friday, April 7, 2017**

**NOTE WELL:** *This request extends several pages. Please be sure you have reached the end of the document.*

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4 – “may” – what factors or standards govern the exercise of the Director’s discretion? What guides the Director in deciding whether to impose additional requirements? Are these factors or standards set out in statutes, other rules, or materials incorporated by reference?*

*Lines 6-11 – add “the” after “specify”*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017

1 15A NCAC 03M .0522 is adopted as published in 31:07 NCR 589 as follows:

2  
3 **15A NCAC 03M .0522 SPOTTED SEATROUT**

4 The Fisheries Director may, by proclamation, impose any of the following requirements on the taking of spotted  
5 seatrout:

6 (1) specify time;

7 (2) specify area;

8 (3) specify means and methods;

9 (4) specify season;

10 (5) specify size; and

11 (6) specify quantity.

12  
13 *History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*

14 *Eff. May 1, 2017.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0114

**DEADLINE FOR RECEIPT: Friday, April 7, 2017**

**NOTE WELL:** *This request extends several pages. Please be sure you have reached the end of the document.*

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 5-6 – is this merely a restatement of statute? If so, please delete. If not, replace “are” with “shall be”*

*Line 8 – add “the purposes of” before “license” and delete “purposes” after “revocation”*

*Lines 12-13 – replace “so far as” with “for the purposes of license” and delete “revocation of the licenses of a licensee is concerned”*

*Line 24 – replace “when” with “if”*

*Line 25 – replace the semicolon with “and”*

*Line 27 – add a comma after “14B” and replace “and” with “or”*

*Line 29 – add “that” after “determines”*

*Lines 31-32 – replace “may” with “shall” and consider revising as follows:*

If the licensee is not an individual, the written notice shall be served upon any responsible individual affiliated with the corporation, partnership, or association.

*Line 33 – delete “must or replace it with “shall” and replace “takes” with either “take” or “shall take”*

*Lines 34-35 – delete “then or subsequently, as may be feasible under the circumstances,”*

*Page 2, line 1 – replace “Where” with “If”*

*Page 2, lines 2 and 6 – add a comma after “14B” and replace “and” with “or”*

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017

*Page 2, lines 7-11 – consider revising as follows:*

A request for reinstatement following revocation shall demonstrate that the licensee will conduct the operations for which the license is sought in accord with all applicable laws and rules, shall be in writing, and shall be sent to the Fisheries Director, Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557.

*Page 2, line 12 – delete “deemed”*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017



1 15A NCAC 03O .0114 is amended as published in 31:07 NCR 589-590 as follows:

2  
3 **15A NCAC 03O .0114 SUSPENSION, ~~REVOCATION~~ REVOCATION, AND REISSUANCE OF**  
4 **LICENSES**

5 (a) All commercial and recreational licenses issued under Article 14A, Article 14B, and Article 25A of Chapter 113  
6 are subject to suspension and revocation.

7 (b) A conviction resulting from being charged by an inspector under G.S. 14-32, ~~14-33~~ 14-33, 14-72, or 14-399 shall  
8 be deemed a conviction for license suspension or revocation purposes.

9 (c) Upon receipt of notice of a licensee's conviction as specified in G.S. 113-171 or a conviction as specified in  
10 Paragraph (b) of this Rule, the Fisheries Director shall determine whether it is a first, ~~a second, a third, or a fourth~~  
11 fourth, or subsequent conviction. Where several convictions result from a single transaction or occurrence, the  
12 convictions shall be treated as a single conviction so far as suspension or revocation of the licenses of a licensee is  
13 concerned. For a second conviction, the Fisheries Director shall suspend all licenses issued to the licensee for a period  
14 of 30 days; for a third conviction, the Fisheries Director shall suspend all licenses issued to the licensee for a period  
15 of 90 days; for a fourth or subsequent conviction, the Fisheries Director shall revoke all licenses issued to the licensee,  
16 except:

17 (1) ~~For for~~ a felony conviction under G.S. 14-399, the Fisheries Director shall suspend all licenses  
18 issued to the licensee for a period of one year;

19 (2) ~~For for~~ a first conviction under G.S. 113-187(d)(1), the Fisheries Director shall suspend all licenses  
20 issued to the licensee for a period of one year; for a second or subsequent conviction under G.S.  
21 113-187(d)(1), the Fisheries Director shall revoke all licenses issued to the licensee;

22 (3) ~~For for~~ a conviction under G.S. 14-72, 113-208, 113-209, 113-268, or 113-269, the Fisheries  
23 Director shall revoke all licenses issued to the licensee; and

24 (4) ~~For for~~ a conviction under G.S. 14-32 or 14-33, when the offense was committed against a marine  
25 fisheries ~~inspector-inspector~~, the Fisheries Director shall revoke all licenses issued to the licensee;  
26 the former licensee shall not be eligible to apply for reinstatement of a revoked license or for any  
27 additional license authorized in Article 14A, Article 14B and Article 25A of Chapter 113 for a period  
28 of two years.

29 (d) After the Fisheries Director determines a conviction requires a suspension or revocation of the licenses of a  
30 licensee, the Fisheries Director shall cause the licensee to be served with written notice of suspension or revocation.  
31 The written notice may be served upon any responsible individual affiliated with the corporation, partnership, or  
32 association where the licensee is not an individual. The notice of suspension or revocation shall be served by an  
33 inspector or other agent of the Department or by certified mail, must state the ground upon which it is based, and takes  
34 effect immediately upon service. The agent of the Fisheries Director making service shall then or subsequently, as  
35 may be feasible under the circumstances, collect all license certificates and plates and other forms or records relating  
36 to the license as directed by the Fisheries Director.

1 (e) Where a license has been suspended, the former licensee shall not be eligible to apply for reissuance of license or  
2 for any additional license authorized in Article 14A, Article 14B and Article 25A of Chapter 113 during the suspension  
3 period. Licenses shall be returned to the licensee by the Fisheries Director or the Director's agents at the end of a  
4 period of suspension.

5 (f) Where a license has been revoked, the former licensee shall not be eligible to apply for reinstatement of a revoked  
6 license or for any additional license authorized in Article 14A, Article 14B and Article 25A of Chapter 113 for a  
7 period of one year, except as provided in ~~Paragraph~~ Subparagraph (c)(4) of this Rule. For a request for reinstatement  
8 following revocation, the eligible former licensee shall satisfy the Fisheries Director that the licensee will strive in the  
9 future to conduct the operations for which the license is sought in accord with all applicable laws and rules by sending  
10 a request for reinstatement in writing to the Fisheries Director, Division of Marine Fisheries, 3441 Arendell Street,  
11 P.O. Box 769, Morehead City, ~~North Carolina~~ NC 28557. Upon the application of an eligible former licensee after  
12 revocation, the Fisheries Director may issue one license sought but not another, as deemed necessary to prevent the  
13 hazard of recurring violations of the law.

14 (g) A licensee shall not willfully evade the service prescribed in this Rule.

15  
16 *History Note: Authority G.S. 113-168.1; 113-171; S.L. 2010-145;*  
17 *Eff. October 1, 2012;*  
18 *Amended Eff. May 1, 2017.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0201

**DEADLINE FOR RECEIPT: Friday, April 7, 2017**

**NOTE WELL:** *This request extends several pages. Please be sure you have reached the end of the document.*

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 6 – add a comma after “113-202”*

*Line 9 – commas should be placed inside quotation marks*

*Line 9 – add a comma after “113-201.1”*

*Line 11 – replace “or” with a comma*

*Line 12 – delete the comma*

*Line 15 – add a period at the end of this line and delete all remaining words in lines 16 and 17 if this does not change the meaning of the subparagraph.*

*Line 21 – delete “deemed”*

*Lines 24-26 – consider revising as follows, if this does not change the meaning of the paragraph:*

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

*Line 27 – add “they” to the beginning of this line*

*Line 28 – replace “plant” with “they are planted with”*

*Line 31 – consider revising as follows, if this does not change the meaning of the paragraph: “Water column leases shall be terminated unless.”*

*Line 32 – add “they” to the beginning of this line*

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017

*Line 32 – do you mean “or” or “and” (see line 27)*

*Line 33 – replace “plant” with “the underlying bottom is planted with”*

*Line 36 – page 2, line 3 – consider revising as follows:*

- (1) Only shellfish marketed, planted, or produced as defined in 15A NCAC 03I .0101(2)(i), .0101(2)(j), and .0101(2)(k) shall be included in the lease and franchise reports required by Rule .0207 of this Section.

*Page 2, line 2 requires the use of a form. The APA requires the substantive contents of forms to be set forth in either rules or statute and that the location where the form may be obtained is identified.*

*Page 2, lines 6 and 7 – replace “may” with “shall” on each line*

*Page 2, line 10 – add “of this Rule” after “requirements” if that is what is meant.*

*Page 3, lines 13-15 – consider revising as follows:*

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

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017

1 15A NCAC 03O .0201 is amended as published in 31:07 NCR 590-591 as follows:

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

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

- 8 (1) ~~The the proposed~~ lease area ~~must shall~~ not contain a ~~natural shellfish bed which is defined as "natural~~  
9 ~~shellfish bed"~~, as defined in G.S. 113-201.1 or have 10 bushels or more of shellfish per ~~acre~~ acre;  
10 (2) ~~The the proposed~~ lease area ~~must shall~~ not be closer than 100 feet to a developed shoreline, except  
11 no minimum setback is required when the area to be leased borders the applicant's property or the  
12 property of ~~riparian owners~~ "riparian owners", as defined in G.S. 113-201.1 who have consented in  
13 a notarized ~~statement. In statement, or is in~~ an area bordered by undeveloped ~~shoreline, no minimum~~  
14 ~~setback is required.~~ shoreline; and  
15 (3) ~~The the proposed~~ lease area shall not be less than one-half acre and shall not exceed ~~five~~ 10 acres  
16 for all ~~areas except those areas open to the mechanical harvest of oysters where proposed lease area~~  
17 ~~shall not exceed 10 acres.~~ areas.

18 ~~This Subparagraph shall not be applied to reduce any holdings as of July 1, 1983.~~

19 ~~(b) Persons holding five or more acres under shellfish lease or franchise shall meet the standards established in~~  
20 ~~Paragraph (c) of this Rule prior to acceptance of applications for additional shellfish lease acreage.~~

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

24 ~~(c) Franchises To avoid termination, franchises recognized pursuant to G.S. 113-206 and shellfish bottom leases shall~~  
25 ~~meet the following standards in addition to the standards in G.S. 113-202. In order to avoid termination, franchises~~  
26 ~~and shellfish bottom leases shall:~~ requirements, in addition to the standards in G.S. 113-202:

- 27 (1) ~~Produce~~ produce and market 10 bushels of shellfish per acre per year; and  
28 (2) ~~Plant~~ plant 25 bushels of seed shellfish per acre per year or 50 bushels of cultch per acre per year,  
29 or a combination of cultch and seed shellfish where the percentage of required cultch planted and  
30 the percentage of required seed shellfish planted totals at least 100 percent.

31 (d) To avoid termination, water column leases shall:

- 32 (1) produce and market 40 bushels of shellfish per acre per year; or  
33 (2) plant 100 bushels of cultch or seed shellfish per acre per year.

34 ~~(d)(e) The following standards shall be applied to determine compliance with Subparagraphs (1) and (2) of Paragraph~~  
35 ~~(e) Paragraphs (c) and (d) of this Rule:~~

- 36 (1) Only shellfish marketed, planted, or produced ~~or marketed according to the definitions as defined~~  
37 in 15A NCAC 03I .0101 as the fishing activities "shellfish marketing from leases and franchises",

- 1 "shellfish planting effort on leases and franchises", or "shellfish production on leases and franchises"  
2 shall be submitted on ~~production/utilization-reporting~~ forms as set forth in Rule .0207 of this Section  
3 for ~~shellfish~~-leases and franchises.
- 4 (2) If more than one ~~shellfish~~-lease or franchise is used in the production of shellfish, one of the leases  
5 or franchises used in the production of the shellfish ~~must~~ shall be designated as the producing lease  
6 or franchise for those shellfish. Each bushel of shellfish may be produced by only one ~~shellfish~~  
7 lease or franchise. Shellfish transplanted between leases or franchises may be credited as planting  
8 effort on only one lease or franchise.
- 9 (3) Production and marketing information and planting effort information shall be compiled and  
10 averaged separately to assess compliance with the ~~standards-requirements~~. The lease or franchise  
11 ~~must~~ shall meet both the production requirement and the planting effort requirement within the dates  
12 set forth in G.S. 113-202.1 and 202.2 to be ~~judged~~ deemed in compliance ~~with these standards for~~  
13 shellfish bottom leases. The lease or franchise shall meet either the production requirement or the  
14 planting effort requirement within the dates set forth in G.S. 113-202.1 and 202.2 to be deemed in  
15 compliance for water column leases.
- 16 (4) All bushel measurements shall be in standard U.S. bushels.
- 17 ~~(4)(5)~~ In determining production and marketing averages and planting effort averages for information not  
18 reported in bushel measurements, the following conversion factors shall be used:
- 19 (A) 300 oysters, 400 clams, or 400 scallops equal one bushel; and  
20 (B) 40 pounds of scallop shell, 60 pounds of oyster shell, 75 pounds of clam ~~shell and shell~~, or  
21 90 pounds of fossil stone equal one bushel.
- 22 ~~(5) In the event that a portion of an existing lease or franchise is obtained by a new owner, the production~~  
23 ~~history for the portion obtained shall be a percentage of the originating lease or franchise production~~  
24 ~~equal to the percentage of the area of lease or franchise site obtained to the area of the originating~~  
25 ~~lease or franchise.~~
- 26 (6) Production and marketing rate averages shall be computed irrespective of transfer of the lease or  
27 franchise. The production and marketing rates shall be ~~averaged~~ averaged for the following  
28 situations using the time periods described:
- 29 (A) for an initial bottom lease or franchise, over the consecutive full calendar years remaining  
30 on the bottom lease or franchise contract after December 31 following the second  
31 anniversary of the initial bottom leases and franchises, lease or franchise;
- 32 (B) for a renewal bottom lease or franchise, over the consecutive full calendar years beginning  
33 January 1 of the final year of the previous bottom lease or franchise term and ending  
34 December 31 of the final year of the current bottom lease ~~contract for renewal leases or~~  
35 franchise contract;

(C) for a water column lease, over the first ~~five year~~ five-year period for an initial water column leases-lease and over the most recent ~~five year~~ five-year period thereafter for a renewal water column leases-lease; or

(D) for a bottom lease or franchise issued an extension period under Rule .0208 of this Section, over the most recent five-year period.

~~Production and marketing rate averages shall be computed irrespective of transfer of the shellfish lease or franchise.~~

~~(7) All bushel measurements shall be in U.S. Standard Bushels.~~

(7) In the event that a portion of an existing lease or franchise is obtained by a new owner, the production history for the portion obtained shall be a percentage of the originating lease or franchise production equal to the percentage of the area of lease or franchise site obtained to the area of the originating lease or franchise.

(f) Persons holding five or more acres under all shellfish bottom leases and franchises combined shall meet the requirements established in Paragraph (c) of this Rule prior to the Division of Marine Fisheries accepting applications for additional shellfish lease acreage.

~~(e) Water columns superjacent to leased bottoms shall meet the standards in G.S. 113-202.1 in order to be deemed suitable for leasing for aquaculture purposes.~~

~~(f) Water columns superjacent to franchises recognized pursuant to G.S. 113-206 shall meet the standards in G.S. 113-202.2 in order to be deemed suitable for leasing for aquaculture purposes.~~

~~(g) Water column leases must produce and market 40 bushels of shellfish per acre per year to meet the minimum commercial production requirement or plant 100 bushels of cultch or seed shellfish per acre per year to meet commercial production by planting effort. The standards for determining production and marketing averages and planting effort averages shall be the same for water column leases as for bottom leases and franchises set forth in Paragraph (d) of this Rule except that either the produce and market requirement or the planting requirement must be met.~~

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

*Eff. January 1, 1991;*

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

*Temporary Amendment Eff. October 1, 2001;*

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

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0208

**DEADLINE FOR RECEIPT: Friday, April 7, 2017**

**NOTE WELL:** *This request extends several pages. Please be sure you have reached the end of the document.*

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 5-6 – revise the second sentence of Paragraph (a) as follows: “An appeal of the Secretary’s decision to terminate a leasehold is governed by G.S. 150B-23.”*

*Line 7 – delete this line entirely, and begin the paragraph “Substantial breach...” on line 9.*

*Line 21 – replace “or” with “and”*

*Line 34 – replace “sufficient” with “a” or define “sufficient”*

*Line 36 – delete the quotation marks*

*Line 37 – add a comma after “168”*

*Page 2, line 7 – delete both commas*

*Page 2, line 8 – “may” – what factors or standards govern the exercise of the Director’s discretion? What guides the Director in deciding whether to require a verification? Are these factors or standards set out in statutes, other rules, or materials incorporated by reference?*

*Page 2, line 9 – delete “any”*

*Page 2, lines 11-12 – is Paragraph (e) necessary?*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017



1 15A NCAC 03O .0208 is amended as published in 31:07 NCR 591-592 as follows:

2  
3 **15A NCAC 03O .0208 ~~CANCELLATION~~TERMINATION OF SHELLFISH BOTTOM LEASES AND**  
4 **FRANCHISES AND WATER COLUMN LEASES**

5 (a) Procedures for termination of shellfish leaseholds are provided in G.S. 113-202. The Secretary's decision to  
6 terminate a leasehold may be appealed by initiating a contested case as outlined in G.S. 150B-23.

7 ~~(a)(b) In addition to~~ Consistent with the grounds for termination established by G.S. 113-202, ~~the Secretary shall~~  
8 ~~begin action to terminate leases and franchises for failure to produce and market shellfish or for failure to maintain a~~  
9 ~~planting effort of cultch or seed shellfish in accordance with 15A NCAC 03O .0201~~ substantial breach of compliance  
10 with the provisions of rules of the Marine Fisheries Commission governing use of the leasehold includes the following,  
11 except as provided in Paragraph (c) of this Rule:

12 (1) failure to meet shellfish production and marketing requirements for bottom leases or franchises in  
13 accordance with Rule .0201 of this Section;

14 (2) failure to maintain a planting effort of cultch or seed shellfish for bottom leases or franchises in  
15 accordance with Rule .0201 of this Section;

16 (3) failure either to meet shellfish production and marketing requirements or to maintain a planting  
17 effort of cultch or seed shellfish for water column leases in accordance with Rule .0201 of this  
18 Section;

19 (4) the Fisheries Director has cause to believe the holder of private shellfish bottom or franchise rights  
20 has encroached or usurped the legal rights of the public to access public trust resources in navigable  
21 waters, in accordance with G.S. 113-205 and Rule .0204 of this Section; or

22 (5) the Attorney General initiates action for the purpose of vacating or annulling letters patent granted  
23 by the State, in accordance with G.S. 146-63.

24 ~~(b) Action to terminate a shellfish franchise shall begin when there is reason to believe that the patentee, or those~~  
25 ~~claiming under him, have done or omitted an act in violation of the terms and conditions on which the letters patent~~  
26 ~~were granted, or have by any other means forfeited the interest acquired under the same. The Division shall investigate~~  
27 ~~all such rights issued in perpetuity to determine whether the Secretary should request that the Attorney General initiate~~  
28 ~~an action pursuant to G.S. 146-63 to vacate or annul the letters patent granted by the state.~~

29 ~~(c) Action to terminate a shellfish lease or franchise shall begin when the Fisheries Director has cause to believe the~~  
30 ~~holder of private shellfish rights has encroached or usurped the legal rights of the public to access public trust resources~~  
31 ~~in navigable waters.~~

32 (c) Consistent with G.S. 113-202(11) and 113-201(b), a leaseholder that failed to meet requirements in G.S. 113-202,  
33 15A NCAC 03O .0201 or this Rule may be granted a single extension period of no more than two years per contract  
34 period upon sufficient showing of hardship by written notice to the Fisheries Director prior to the expiration of the  
35 lease term that one of the following occurrences caused or will cause the leaseholder to fail to meet lease requirements:

36 (1) death, illness, or incapacity of the leaseholder or his "immediate family", as defined in G.S. 113-  
37 168 that prevented or will prevent the leaseholder from working the lease;

1           (2) damage to the lease from hurricanes, tropical storms, or other severe weather events recognized by  
2           the National Weather Service;

3           (3) shellfish mortality caused by disease, natural predators, or parasites; or

4           (4) damage to the lease from a manmade disaster that triggers a state emergency declaration or federal  
5           emergency declaration.

6           (d) In the case of hardship as described in Subparagraph (c)(1) of this Rule, the notice shall state the name of the  
7           leaseholder or immediate family member, and either the date of death, or the date and nature of the illness or  
8           incapacity. The Fisheries Director may require a doctor's verification of the illness or incapacity. Written notice and  
9           any supporting documentation shall be addressed to the Director of the Division of Marine Fisheries, 3441 Arendell  
10          St., P.O. Box 769, Morehead City, NC 28557.

11          (e) Requirements for transfer of beneficial ownership of all or any portion of or interest in a leasehold are provided  
12          in G.S. 113-202(k).

13          ~~(d) In the event action to terminate a lease is begun, the owner shall be notified by registered mail and given a period~~  
14          ~~of 30 days in which to correct the situation. Petitions to review the Secretary's decision must be filed with the Office~~  
15          ~~of Administrative Hearings as outlined in 15A NCAC 03P .0102.~~

16          ~~(e) The Secretary's decision to terminate a lease may be appealed by initiating a contested case as outlined in 15A~~  
17          ~~NCAC 03P .0102.~~

18  
19          *History Note: Authority G.S. 113-134; 113-201; 113-202; 113-202.1; 113-202.2; 113-205; 143B-289.52;*

20                     *Eff. January 1, 1991;*

21                     *Amended Eff. May 1, 1997; March 1, 1995; March 1, 1994; October 1, 1992; September 1, 1991;*

22                     *Temporary Amendment Eff. January 1, 2002; October 1, 2001;*

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

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0501

**DEADLINE FOR RECEIPT: Friday, April 7, 2017**

**NOTE WELL:** *This request extends several pages. Please be sure you have reached the end of the document.*

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 4-5 – consider revising as follows:*

- (a) To obtain any Marine Fisheries permit, an applicant, responsible party, or person holding a power of attorney shall provide the following information:

*Line 6 – begin the line with “the”*

*Line 7 – add a comma after “and”*

*Line 9 – begin the line with “a”*

*Line 13 – consider revising as follows:*

- (3) for permits that require a list of designees, the full names and dates of birth of designees of the applicant who will be acting under the requested permit;

*Lines 18, 19, and 21 – begin the lines with “the”*

*Line 19 – are these the only types of entities that you wish to list?*

*Line 23-24 – is the phrase “when applying for a permit in a corporate name” necessary? If not, delete it. If so, consider revising as follows:*

- (D) for a corporation applying for a permit in a corporate name, the current articles of incorporation and a current list of corporate officers;

*Line 25 – delete the comma and replace “if the partnership” with “that”*

*Line 27 – delete the comma after “entities”*

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017

*Line 28 – please identify with whom name statements might be filed.*

*Page 2, lines 4 and 13 – replace “When” with “If”*

*Page 2, line 24 – add a comma after “Endorsement”*

*Page 2, line 32 – replace “Upon application” with “An applicant” and delete the comma and “a person”*

*Page 2, line 33 – replace “gears” with “types of gear”*

*Page 2, lines 35-37 – add “a” at the beginning of each line*

*Page 2, line 36 – is the correct term “trawl” or “trawl net” (see 03J .0104)? Please use terms consistently throughout your rules.*

*Page 3, line 7 – add a comma after “Licenses”*

*Page 3, line 9 – add “the” before “deficiency”*

*Page 3, line 10 – delete “so”*

*Page 3, line 13 – add a comma after “.0503”*

*Page 3, line 14 – “may” – what factors or standards govern the exercise of the Director’s discretion? Do you really mean “shall”? If so, consider revising as follows:*

*In determining whether to issue, modify, or renew a permit, the Fisheries Director or his agent shall evaluate the following:*

*or*

*In determining whether to issue, modify, or renew a permit, the Fisheries Director or his agent shall evaluate factors such as the following:*

*Page 3, line 18 – add “the” at the beginning of this line.*

*Page 3, line 19 – delete “as determined by the Fisheries Director”*

*Page 3, line 20 – add “the” at the beginning of this line and delete or define “habitual”*

*Page 3, line 23 – delete the comma*

*Page 3, line 31 – replace “Notarization of signature” with “Notarized signatures”*

*Page 3, lines 32-33 – delete Paragraph (n)*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017

1 15A NCAC 03O .0501 is amended as published in 31:07 NCR 592-594 as follows:

2  
3 **15A NCAC 03O .0501 PROCEDURES AND REQUIREMENTS TO OBTAIN PERMITS**

4 (a) To obtain any Marine Fisheries permit, the following information is required for proper application from the  
5 applicant, a responsible party, or person holding a power of attorney:

- 6 (1) ~~Full~~full name, physical address, mailing address, date of birth, and signature of the applicant on the  
7 ~~application. If application and~~ the applicant is not appearing before a license agent or the  
8 designated Division contact, the applicant's signature on the application shall be notarized;
- 9 (2) ~~Current~~current picture identification of applicant, responsible party, or person holding a power of  
10 attorney. Acceptable forms of picture identification are driver's license, North Carolina  
11 Identification card issued by the North Carolina Division of Motor Vehicles, military identification  
12 card, resident alien card (green card), or ~~passport; passport,~~ or if applying by mail, a copy thereof;
- 13 (3) ~~Full~~full names and dates of birth of designees of the applicant who will be acting under the requested  
14 permit where that type permit requires listing of designees;
- 15 (4) ~~Certification~~certification that the applicant and his designees do not have four or more marine or  
16 estuarine resource convictions during the previous three years;
- 17 (5) ~~For~~for permit applications from business entities:
- 18 (A) ~~Business Name;~~business name;
- 19 (B) ~~Type of Business Entity: Corporation,~~type of business entity: corporation, partnership,  
20 or sole proprietorship;
- 21 (C) ~~Name,~~name, address, and phone number of responsible party and other identifying  
22 information required by this Subchapter or rules related to a specific permit;
- 23 (D) ~~For~~for a corporation, current articles of incorporation and a current list of corporate  
24 officers when applying for a permit in a corporate name;
- 25 (E) ~~For~~for a partnership, if the partnership is established by a written partnership agreement,  
26 a current copy of such agreement shall be provided when applying for a permit; and
- 27 (F) ~~For~~for business entities, other than corporations, copies of current assumed name  
28 statements if filed and copies of current business privilege tax certificates, if applicable;  
29 and
- 30 (6) ~~Additional~~additional information as required for specific permits.

31 (b) A permittee shall hold a valid Standard or Retired Standard Commercial Fishing License in order to hold a:

- 32 (1) Pound Net Permit;
- 33 (2) Permit to Waive the Requirement to Use Turtle Excluder Devices in the Atlantic Ocean;~~or~~
- 34 (3) Atlantic Ocean Striped Bass Commercial Gear ~~Permit~~Permit; or
- 35 (4) Permit for Weekend Trawling for Live Shrimp.
- 36 (A) An individual who is assigned a Standard Commercial Fishing License is the individual  
37 required to hold a Permit for Weekend Trawling for Live Shrimp.

- (B) The master designated on the single vessel corporation Standard Commercial Fishing License is the individual required to hold the Permit for Weekend Trawling for Live Shrimp.
- (c) ~~A~~ When mechanical methods to take shellfish are used, a permittee and his designees shall hold a valid Standard or Retired Standard Commercial Fishing License with a Shellfish Endorsement or a Shellfish License in order for a permittee to hold a:
- (1) Permit to Transplant Prohibited (Polluted) Shellfish;
  - (2) Permit to Transplant Oysters from Seed Oyster Management Areas;
  - (3) Permit to Use Mechanical Methods for Shellfish on Shellfish Leases or ~~Franchises~~ Franchises, except as provided in G.S. 113-169.2;
  - (4) Permit to Harvest Rangia Clams from Prohibited (Polluted) Areas; or
  - (5) Depuration Permit.
- (d) When mechanical methods to take shellfish are not used, a permittee and his designees shall hold a valid Standard or Retired Standard Commercial Fishing License with a Shellfish Endorsement or a Shellfish License in order for a permittee to hold a:
- (1) Permit to Transplant Prohibited (Polluted) Shellfish;
  - (2) Permit to Transplant Oysters from Seed Oyster Management Areas;
  - (3) Permit to Harvest Rangia Clams from Prohibited (Polluted) Areas; or
  - (4) Depuration Permit.
- ~~(d)~~(e) A permittee shall hold a valid:
- (1) Fish Dealer License in the proper category in order to hold Dealer Permits for Monitoring Fisheries Under a Quota/Allocation for that category; and
  - (2) Standard Commercial Fishing License with a Shellfish Endorsement, Retired Standard Commercial Fishing License with a Shellfish Endorsement or a Shellfish License in order to harvest clams or oysters for depuration.
- ~~(e)~~(f) Aquaculture Operations/Collection Permits:
- (1) A permittee shall hold a valid Aquaculture Operation Permit issued by the Fisheries Director to hold an Aquaculture Collection Permit.
  - (2) The permittee or designees shall hold appropriate licenses from the Division of Marine Fisheries for the species harvested and the gear used under the Aquaculture Collection Permit.
- ~~(f)~~(g) Atlantic Ocean Striped Bass Commercial Gear Permit:
- (1) Upon application for an Atlantic Ocean Striped Bass Commercial Gear Permit, a person shall declare one of the following gears for an initial permit and at intervals of three consecutive license years thereafter:
    - (A) gill net;
    - (B) trawl; or
    - (C) beach seine.

For the purpose of this Rule, a “beach seine” is defined as a swipe net constructed of multi-filament or multi-fiber webbing fished from the ocean beach that is deployed from a vessel launched from the ocean beach where the fishing operation takes place. Gear declarations shall be binding on the permittee for three consecutive license years without regard to subsequent annual permit issuance.

(2) A person is not eligible for more than one Atlantic Ocean Striped Bass Commercial Gear Permit regardless of the number of Standard Commercial Fishing Licenses, Retired Standard Commercial Fishing Licenses or assignments held by the person.

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

~~(h)~~(i) A permit shall be issued only after the application has been deemed complete by the Division of Marine Fisheries and the applicant certifies to abide by the permit general and specific conditions established under 15A NCAC 03J .0501, .0505, 03K .0103, .0104, .0107, .0111, .0401, 03O .0502, and .0503 as applicable to the requested permit.

~~(i)~~(j) The Fisheries Director, or his agent may evaluate the following in determining whether to issue, modify, or renew a permit:

- (1) ~~Potential~~potential threats to public health or marine and estuarine resources regulated by the Marine Fisheries Commission;
- (2) ~~Applicant's~~applicant's demonstration of a valid justification for the permit and a showing of responsibility as determined by the Fisheries Director; and
- (3) ~~Applicant's~~applicant's history of habitual fisheries violations evidenced by eight or more violations in 10 years.

~~(j)~~(k) The Division of Marine Fisheries shall notify the applicant in writing of the denial or modification of any permit request and the reasons therefor. The applicant may submit further information, or reasons why the permit should not be denied or modified.

~~(k)~~(l) Permits are valid from the date of issuance through the expiration date printed on the permit. Unless otherwise established by rule, the Fisheries Director may establish the issuance timeframe for specific types and categories of permits based on season, calendar year, or other period based upon the nature of the activity permitted, the duration of the activity, compliance with federal or state fishery management plans or implementing rules, conflicts with other fisheries or gear usage, or seasons for the species involved. The expiration date shall be specified on the permit.

~~(l)~~(m) For permit renewals, the permittee's signature on the application shall certify all information as true and accurate. Notarization of signature on renewal applications shall not be required.

~~(m)~~(n) For initial or renewal permits, processing time for permits may be up to 30 days unless otherwise specified in this Chapter.

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

~~(o)~~(p) It is unlawful for a permit holder to fail to notify the Division of Marine Fisheries of a change of designee prior to use of the permit by that designee.

1 ~~(p)(q)~~ Permit applications are available at all Division Offices.

2  
3 *History Note: Authority G.S. 113-134; 113-169.1; 113-169.2; 113-169.3; 113-182; 113-210; 143B-289.52;*  
4 *Temporary Adoption Eff. September 1, 2000; May 1, 2000;*  
5 *Eff. April 1, 2001;*  
6 *Temporary Amendment Eff. October 1, 2001;*  
7 *Amended Eff. May 1, 2017; May 1, 2015; April 1, 2011; April 1, 2009; July 1, 2008; December 1,*  
8 *2007; September 1, 2005; April 1, 2003; August 1, 2002.*



## REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0503

**DEADLINE FOR RECEIPT: Friday, April 7, 2017**

**NOTE WELL:** *This request extends several pages. Please be sure you have reached the end of the document.*

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 7 – delete “a” and add “an annual” before “report” if that is what is meant*

*Lines 8, 24, page 4, lines 4, 26 require the use of a form. The APA requires the substantive contents of forms to be set forth in either rules or statute and that the location where the form may be obtained is identified.*

*Line 10 – replace “by the biomedical facility” with “for biomedical research” if that is what is meant.*

*Line 30 – is the “required log” the log referenced in line 29 or a log maintained by all fish dealers? Please specify by reference to the appropriate rule.*

*Page 3, line 7 – what does “when allowed” refer to – when a waiver is allowed, or when trawling is allowed, or something else? Please specify.*

*Page 3, line 9 – unlawful to tow what, exactly – a blue crab shed? Please specify.*

*Page 4, lines 17-19 – what is the basis for determining whether purposes are scientific or educational? What standards apply to this determination?*

*Page 4, line 24 – delete “a” and add “an annual” before “report” if that is what is meant*

*Page 4, line 30 – delete “(s)”*

*Page 4, line 31 – add “an” at the beginning of this line*

*Page 5, line 35 – delete or define “for military appreciation”*

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017

*Page 6, line 4 – what are “disadvantaged youths”?*

*Page 6, line 7 – delete “(s)”*

*Page 6, line 8 – replace “time period” with “date of the event” if that is what is meant*

*Page 6, line 12 – replace “Director in writing a minimum of 30” with ““Director, in writing, at least 30”*

*Page 6, line 13 – delete “(s)”*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017

1 15A NCAC 03O .0503 is amended with changes as published in 31:07 NCR 594-597 as follows:

2  
3 **15A NCAC 03O .0503 PERMIT CONDITIONS; SPECIFIC**

4 (a) Horseshoe Crab Biomedical Use Permit:

5 (1) It is unlawful to use horseshoe crabs for biomedical purposes without first obtaining a permit.

6 (2) It is unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to  
7 submit a report on the use of horseshoe crabs to the Division of Marine Fisheries due on February  
8 1 of each year. Such reports shall be filed on forms provided by the Division and shall include a  
9 monthly account of the number of crabs harvested, statement of percent mortality up to the point of  
10 release, and a certification that harvested horseshoe crabs are solely used by the biomedical facility  
11 and not for other purposes.

12 (3) It is unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to  
13 comply with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan  
14 for Horseshoe Crab. The Atlantic States Marine Fisheries Commission Interstate Fishery  
15 Management Plan for Horseshoe Crab is incorporated by reference including subsequent  
16 amendments and editions. Copies of this plan are available via the Internet from the Atlantic States  
17 Marine Fisheries Commission at <http://www.asmfmc.org/fisheries-management/program-overview>  
18 and at the Division of Marine Fisheries, ~~P.O. Box 769, 3441 Arendell St.,~~ 3441 Arendell Street, P.O.  
19 Box 769, Morehead City, North Carolina NC 28557 at no cost.

20 (b) Dealers Permits for Monitoring Fisheries under a Quota/Allocation:

21 (1) During the commercial season opened by proclamation or rule for the fishery for which a Dealers  
22 Permit for Monitoring Fisheries under a Quota/Allocation permit is issued, it is unlawful for the fish  
23 dealers issued such permit to fail to:

24 (A) fax or send via electronic mail by noon daily, on forms provided by the Division, the  
25 previous day's landings for the permitted fishery to the dealer contact designated on the  
26 permit. Landings for Fridays or Saturdays shall be submitted on the following Monday. If  
27 the dealer is unable to fax or electronic mail the required information, the permittee shall  
28 call in the previous day's landings to the dealer contact designated on the permit, but shall  
29 maintain a log furnished by the Division;

30 (B) submit the required log to the Division upon request or no later than five days after the  
31 close of the season for the fishery permitted;

32 (C) maintain faxes and other related documentation in accordance with 15A NCAC 03I .0114;

33 (D) contact the dealer contact designated on the permit daily regardless of whether or not a  
34 transaction for the fishery for which a dealer is permitted occurred; and

35 (E) record the permanent dealer identification number on the bill of lading or receipt for each  
36 transaction or shipment from the permitted fishery.

37 (2) Striped Bass Dealer Permit:

- (A) It is unlawful for a fish dealer to possess, buy, sell, or offer for sale striped bass taken from the following areas without first obtaining a Striped Bass Dealer Permit validated for the applicable harvest area:
- (i) Atlantic Ocean;
  - (ii) Albemarle Sound Management Area as designated in 15A NCAC 03R .0201; and
  - (iii) the Joint and Coastal Fishing Waters of the Central/Southern Management Area as designated in 15A NCAC 03R .0201.
- (B) No permittee shall possess, buy, sell, or offer for sale striped bass taken from the harvest areas opened by proclamation without having a North Carolina Division of Marine Fisheries issued valid tag for the applicable area affixed through the mouth and gill cover, or, in the case of striped bass imported from other states, a similar tag that is issued for striped bass in the state of origin. North Carolina Division of Marine Fisheries striped bass tags shall not be bought, sold, offered for sale, or transferred. Tags shall be obtained at the North Carolina Division of Marine Fisheries Offices. The Division of Marine Fisheries shall specify the quantity of tags to be issued based on historical striped bass landings. It is unlawful for the permittee to fail to surrender unused tags to the Division upon request.
- (3) Albemarle Sound Management Area for River Herring Dealer Permit: It is unlawful to possess, buy, sell, or offer for sale river herring taken from the ~~following area Albemarle Sound Management Area for River Herring as defined in 15A NCAC 03R .0202~~ without first obtaining an Albemarle Sound Management Area for River Herring Dealer Permit. ~~Albemarle Sound Management Area for River Herring as defined in 15A NCAC 03R .0202 Permit.~~
- (4) Atlantic Ocean Flounder Dealer Permit:
- (A) It is unlawful for a fish dealer to allow vessels holding a valid License to Land Flounder from the Atlantic Ocean to land more than 100 pounds of flounder from a single transaction at their licensed location during the open season without first obtaining an Atlantic Ocean Flounder Dealer Permit. The licensed location shall be specified on the Atlantic Ocean Flounder Dealer Permit and only one location per permit shall be allowed.
- (B) It is unlawful for a fish dealer to possess, buy, sell, or offer for sale more than 100 pounds of flounder from a single transaction from the Atlantic Ocean without first obtaining an Atlantic Ocean Flounder Dealer Permit.
- (5) Black Sea Bass North of Cape Hatteras Dealer ~~Permit~~ Permit: It is unlawful for a fish dealer to purchase or possess more than 100 pounds of black sea bass taken from the Atlantic Ocean north of Cape Hatteras (35° 15.0321' N) per day per commercial fishing operation during the open season unless the dealer has a Black Sea Bass North of Cape Hatteras Dealer Permit.
- (6) Spiny Dogfish Dealer Permit: It is unlawful for a fish dealer to purchase or possess more than 100 pounds of spiny dogfish per day per commercial fishing operation unless the dealer has a Spiny Dogfish Dealer Permit.

(c) Blue Crab Shedding Permit: It is unlawful to possess more than 50 blue crabs in a shedding operation without first obtaining a Blue Crab Shedding Permit from the Division of Marine Fisheries.

(d) Permit to Waive the Requirement to Use Turtle Excluder Devices in the Atlantic Ocean:

(1) It is unlawful to trawl for shrimp in the Atlantic Ocean without Turtle Excluder Devices installed in trawls within one nautical mile of the shore from Browns Inlet (34° 35.7000' N latitude) to Rich's Inlet (34° 17.6000' N latitude) without a valid Permit to Waive the Requirement to Use Turtle Excluder Devices in the Atlantic Ocean when allowed by proclamation from April 1 through November 30.

(2) It is unlawful to tow for more than 55 minutes from April 1 through October 31 and 75 minutes from November 1 through November 30 in the area described in Subparagraph (d)(1) of this Rule when working under this permit. Tow time begins when the doors enter the water and ends when the doors exit the water.

(3) It is unlawful to fail to empty the contents of each net at the end of each tow.

(4) It is unlawful to refuse to take observers upon request by the Division of Marine Fisheries or the National Marine Fisheries Service, Oceanic and Atmospheric Administration Fisheries.

(5) It is unlawful to fail to report any sea turtle captured. Reports shall be made within 24 hours of the capture to the Marine Patrol Communications Center by phone. All turtles taken incidental to trawling shall be handled and resuscitated in accordance with requirements specified in 50 ~~CFR~~ Code of Federal Regulations (CFR) 223.206. ~~This federal rule is incorporated by reference including subsequent amendments and editions. Copies of this rule are available via the Code of Federal Regulations posted on the Internet at <http://www.gpoaccess.gov/cfr/index.html> and at the Division of Marine Fisheries, P.O. Box 769, Morehead City, North Carolina 28557 at no cost. 50 CFR 223.206 [(2002)] is hereby incorporated by [reference.]~~ reference, including subsequent amendments and editions. A copy of the reference materials can be found at [http://www.ecfr.gov/cgi-bin/text-idx?SID=9088932317c242b91d6a87a47b6bda54&mc=true&tpl=/ecfrbrowse/Title50/50tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=9088932317c242b91d6a87a47b6bda54&mc=true&tpl=/ecfrbrowse/Title50/50tab_02.tpl), free of charge. ~~A copy of the CFR in effect on the date of this Rule can be found at [http://portal.ncdenr.org/web/mf/rules and regulations](http://portal.ncdenr.org/web/mf/rules%20and%20regulations), free of charge.~~

(e) Pound Net Set ~~Permits~~ Permit: Rule 15A NCAC 03J .0505 sets forth the specific conditions for pound net set permits.

(f) Aquaculture ~~Operations/Collection Permits~~ Operation Permit and Aquaculture Collection Permit:

(1) It is unlawful to conduct aquaculture operations utilizing marine and estuarine resources without first securing an Aquaculture Operation Permit from the Fisheries Director.

(2) It is unlawful:

(A) to take marine and estuarine resources from Coastal Fishing Waters for aquaculture purposes without first obtaining an Aquaculture Collection Permit from the Fisheries ~~Director~~ Director;

- 1 (B) to sell, or use for any purpose not related to North Carolina aquaculture, marine and  
2 estuarine resources taken under an Aquaculture Collection ~~Permit~~Permit; and
- 3 (C) to fail to submit to the Fisheries Director an annual report due on December 1 of each year  
4 on the form provided by the Division the amount and disposition of marine and estuarine  
5 resources collected under authority of ~~this permit~~an Aquaculture Collection Permit.
- 6 (3) Lawfully permitted shellfish relaying activities authorized by 15A NCAC 03K .0103 and .0104 are  
7 exempt from requirements to have an Aquaculture Operation Permit or Aquaculture Collection  
8 Permit issued by the Fisheries Director.
- 9 (4) ~~Aquaculture Operations/Collection Operation~~ Permits and Aquaculture Collection Permits shall be  
10 issued or renewed on a calendar year basis.
- 11 (5) It is unlawful to fail to provide the Division of Marine Fisheries with a listing of all designees acting  
12 under an Aquaculture Collection Permit at the time of application.
- 13 (g) Scientific or Educational Activity Permit:
- 14 (1) It is unlawful for institutions or agencies seeking exemptions from license, rule, proclamation, or  
15 statutory requirements to collect, hold, culture, or exhibit for scientific or educational purposes any  
16 marine or estuarine species without first obtaining a Scientific or Educational Activity Permit.
- 17 (2) The Scientific or Educational Activity Permit shall only be issued for scientific or educational  
18 purposes and for collection methods and possession allowances approved by the Division of Marine  
19 Fisheries.
- 20 (3) The Scientific or Educational Activity Permit shall only be issued for approved activities conducted  
21 by or under the direction of Scientific or Educational institutions as defined in Rule 15A NCAC 03I  
22 .0101.
- 23 (4) It is unlawful for the responsible party issued a Scientific or Educational Activity Permit to fail to  
24 submit a report on collections and, if authorized, sales to the Division of Marine Fisheries due on  
25 December 1 of each year unless otherwise specified on the permit. The reports shall be filed on  
26 forms provided by the Division. Scientific or Educational Activity permits shall be issued on a  
27 calendar year basis.
- 28 (5) It is unlawful to sell marine or estuarine species taken under a Scientific or Educational Activity  
29 Permit without:
- 30 (A) the required license(s) for such sale;
- 31 (B) authorization stated on the permit for such sale; and
- 32 (C) providing the information required in Rule 15A NCAC 03I .0114 if the sale is to a licensed  
33 fish dealer.
- 34 (6) It is unlawful to fail to provide the Division of Marine Fisheries a listing of all designees acting  
35 under a Scientific or Educational Activity Permit at the time of application.

- 1           (7)     The permittee or designees utilizing the permit shall call the Division of Marine Fisheries  
2                   Communications Center at 800-682-2632 or 252-726-7021 not later than 24 hours prior to use of  
3                   the permit, specifying activities and location.
- 4   (h) Under Dock Oyster Culture Permit:
- 5           (1)     It is unlawful to cultivate oysters in containers under docks for personal consumption without first  
6                   obtaining an Under Dock Oyster Culture Permit.
- 7           (2)     An Under Dock Oyster Culture Permit shall be issued only in accordance with provisions set forth  
8                   in G.S. 113-210(c).
- 9           (3)     The applicant shall complete and submit an examination, with a minimum of 70 percent correct  
10                  answers, based on an educational package provided by the Division of Marine Fisheries pursuant to  
11                  G.S. 113-210(j). The examination demonstrates the applicant's knowledge of:
- 12                  (A)     the application process;
- 13                  (B)     permit criteria;
- 14                  (C)     basic oyster biology and culture techniques;
- 15                  (D)     shellfish harvest area closures due to pollution;
- 16                  (E)     safe handling practices;
- 17                  (F)     permit conditions; and
- 18                  (G)     permit revocation criteria.
- 19           (4)     Action by an Under Dock Oyster Culture Permit holder to encroach on or usurp the legal rights of  
20                  the public to access public trust resources in Coastal Fishing Waters shall result in permit revocation.
- 21   (i) Atlantic Ocean Striped Bass Commercial Gear Permit:
- 22           (1)     It is unlawful to take striped bass from the Atlantic Ocean in a commercial fishing operation without  
23                   first obtaining an Atlantic Ocean Striped Bass Commercial Gear Permit.
- 24           (2)     It is unlawful to use a single Standard Commercial Fishing License, including assignments, to obtain  
25                   more than one Atlantic Ocean Striped Bass Commercial Gear Permit during a license year.
- 26   (j) Coastal Recreational Fishing License Exemption Permit:
- 27           (1)     It is unlawful for the responsible party seeking exemption from recreational fishing license  
28                   requirements for eligible individuals to conduct an organized fishing event held in Joint or Coastal  
29                   Fishing Waters without first obtaining a Coastal Recreational Fishing License Exemption Permit.
- 30           (2)     The Coastal Recreational Fishing License Exemption Permit shall only be issued for recreational  
31                   fishing activity conducted solely for the participation and benefit of one of the following groups of  
32                   eligible individuals:
- 33                  (A)     individuals with physical or mental limitations;
- 34                  (B)     members of the United States Armed Forces and their dependents, upon presentation of a  
35                   valid military identification card, for military appreciation;

(C) individuals receiving instruction on recreational fishing techniques and conservation practices from employees of state or federal marine or estuarine resource management agencies, or instructors affiliated with educational institutions; and

(D) disadvantaged youths.

For purposes of this Paragraph, educational institutions include high schools and other secondary educational institutions.

(3) The Coastal Recreational Fishing License Exemption Permit is valid for the date(s), time, and physical location of the organized fishing event for which the exemption is granted and the time period shall not exceed one year from the date of issuance.

(4) The Coastal Recreational Fishing License Exemption Permit shall only be issued when all of the following, in addition to the information required in 15A NCAC 03O .0501, is submitted to the Fisheries Director in writing a minimum of 30 days prior to the event:

(A) the name, date(s), time, and physical location of the event;

(B) documentation that substantiates local, state, or federal involvement in the organized fishing event, if applicable;

(C) the cost or requirements, if any, for an individual to participate in the event; and

(D) an estimate of the number of participants.

(k) Permit for Weekend Trawling for Live Shrimp:

(1) It is unlawful to take shrimp with trawls from 9:00 p.m. on Friday through 12:00 p.m. (noon) on Saturday without first obtaining a Permit for Weekend Trawling for Live Shrimp.

(2) It is unlawful for a holder of a Permit for Weekend Trawling for Live Shrimp to use trawls from 12:01 p.m. on Saturday through 4:59 p.m. on Sunday.

(3) It is unlawful for a permit holder during the timeframe specified in Subparagraph (k)(1) of this Rule to:

(A) use trawl nets to take live shrimp except from areas open to the harvest of shrimp with trawls;

(B) take shrimp with trawls that have a combined headrope length of greater than 40 feet in Internal Coastal Waters;

(C) possess more than one gallon of dead shrimp (heads on) per trip;

(D) fail to have a functioning live bait tank or a combination of multiple functioning live bait tanks with aerator(s) and/or circulating water, with a minimum combined tank capacity of 50 gallons; and

(E) fail to call the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-726-7021 prior to each weekend use of the permit, specifying activities and location.

*History Note: Authority G.S. 113-134; 113-169.1; 113-169.3; 113-182; 113-210; 143B-289.52;*

*Temporary Adoption Eff. September 1, 2000; August 1, 2000; May 1, 2000;*



1                   *Eff. April 1, 2001;*  
2                   *Amended Eff. May 1, 2017; May 1, 2015; April 1, 2014; April 1, 2009; July 1, 2008; January 1,*  
3                   *2008; September 1, 2005; October 1, 2004; August 1, 2004; August 1, 2002.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03P .0101

**DEADLINE FOR RECEIPT: Friday, April 7, 2017**

**NOTE WELL:** *This request extends several pages. Please be sure you have reached the end of the document.*

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 8 – periods should be placed inside quotation marks.*

*Lines 9, 18, and 24 – the terms “initiation of the action” and “commence proceedings” seem to mean the same thing. Please choose one term and use it consistently. I recommend “commence proceedings.”*

*Line 12 – add a comma after “right”*

*Line 13 – add a comma after “Hearings”*

*Lines 15, 23, and 29 – delete “lawful”*

*Line 18 – replace “for the initiation of the action” with “to commence proceedings”*

*Line 24 – replace “for the initiation of the action” with “to commence proceedings”*

*Line 28 – add a comma after “and”*

*Line 28 – add “shall” before “notify” and delete “of”*

*Line 30 – delete “, but not limited to”*

*Line 31 – delete the comma*

*Line 33 – “may” – what factors or standards govern the exercise of the Division’s discretion? Are these factors or standards nothing more than that “the public health, safety, or welfare requires emergency action”? Are these standards more fully set out in statutes, other rules, or materials incorporated by reference?*

Jason Thomas  
Commission Counsel

Date submitted to agency: March 24, 2017

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: March 24, 2017

1 15A NCAC 03P .0101 is amended as published in 31:07 NCR 597-598 as follows:

2  
3 **15A NCAC 03P .0101 ~~LICENSE/PERMIT~~ LICENSE, PERMIT, OR CERTIFICATE DENIAL:**  
4 **INFORMAL HEARING PROCEDURES REQUEST FOR REVIEW**

5 ~~(a) If the Division decides to deny or limit a renewal of a license or permit for an activity of a continuing nature, the~~  
6 ~~license sought to be renewed shall continue in effect as provided in G.S. 150B-3.~~

7 (a) For the purpose of this Rule and in accordance with G.S. 150B-2, "license" includes "permit" as well as  
8 "certification" and "certificate of compliance".

9 (b) Except in cases where G.S. 113-171 is applicable, before the Division may commence proceedings for suspension,  
10 revocation, annulment, withdrawal, recall, cancellation, or amendment of a ~~license or permit~~, license, notice shall be  
11 given to the license ~~or permit~~ holder ~~notifying him that:~~

12 (1) the license holder has a right through filing a request for a contested case hearing in the Office of  
13 Administrative Hearings to a hearing before an administrative law judge and a final agency decision  
14 by the Marine Fisheries Commission; and

15 ~~(1)(2) He the license holder may request an opportunity to show compliance with all lawful requirements~~  
16 ~~for retention of the license in an informal meeting with Division personnel responsible for the~~  
17 ~~initiation of the action to revoke the license; and by submitting a statement in writing to the personnel~~  
18 ~~designated in the notice for the initiation of the action.~~

19 ~~(2) He has a right through filing a request for a contested case hearing in the Office of Administrative~~  
20 ~~Hearings to a hearing before an administrative law judge and a final agency decision by the Marine~~  
21 ~~Fisheries Commission.~~

22 ~~(c) Any requests statements submitted by the license holder for an informal meeting or administrative hearings shall~~  
23 ~~be made to the person designated in the notice to show compliance with all lawful requirements for retention of the~~  
24 ~~license shall be postmarked within 15 days of receipt of the notice for the initiation of the action. Statements and any~~  
25 ~~supporting documentation shall be addressed to the personnel designated in the notice and mailed to the Division of~~  
26 ~~Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557.~~

27 (d) Upon receipt of a statement and any supporting documentation from the license holder, the Division shall review  
28 the statement and within 15 days, notify the license holder in writing with the Division's determination of whether the  
29 license holder demonstrated compliance with all lawful requirements for retention of the license. In making this  
30 determination, the Division may consider criteria including, but not limited to material changes made enabling the  
31 license holder to conduct the operations for which the license is held in accord with all applicable laws and rules, and  
32 processing errors made by the Division.

33 ~~(d)(e) The Division may order summary suspension of a license or permit if it finds that the public health, safety, or~~  
34 ~~welfare requires emergency action. Upon such determination-determination, the Fisheries Director shall issue an order~~  
35 ~~giving the reasons for the emergency action. The effective date of the order shall be the date specified on the order or~~  
36 ~~the date of service of a certified copy of the order at the last known address of the license or permit holder holder,~~  
37 ~~whichever is later.~~

1 ~~(e) When a license is summarily suspended and a request is made for an informal meeting or a hearing, the proceeding~~  
2 ~~shall be promptly commenced and determined.~~

3  
4 *History Note:* Authority G.S. 113-134; 113-171; 113-221.2; 150B-3; 150B-23;  
5 *Eff. January 1, 1991;*  
6 *Amended Eff. May 1, 2017; August 1, 1999.*

1 15A NCAC 03R .0103 is amended as published in 31:07 NCR 598-619 as follows:

2  
3 **15A NCAC 03R .0103 PRIMARY NURSERY AREAS**

4 The primary nursery areas referenced in 15A NCAC 03N .0104 are delineated in the following coastal water areas:

5 (1) In the Roanoke Sound Area:

6 (a) Shallowbag Bay:

7 (i) Dough Creek - northeast of a line beginning on the west shore at a point 35°  
8 54.5396' N - 75° 39.9681' W; running northeasterly to the east shore to a point  
9 35° 54.4615' N - 75° 40.1598' W; and west of a line that crosses a canal on the  
10 east side of Dough Creek beginning on the north shore at a point 35° 54.7103' N  
11 - 75° 40.0951' W; running southerly to the south shore to a point 35° 54.6847' N  
12 - 75° 40.0882' W; and

13 (ii) Scarborough Creek - south of a line beginning on the west shore at a point 35°  
14 53.9801' N - 75° 39.5985' W; running northeasterly to the east shore to a point  
15 35° 54.0372' N - 75° 39.5558' W; and

16 (b) Broad Creek - all waters north of a line beginning on the west shore at a point 35° 51.9287'  
17 N - 75° 38.3377' W; running northeasterly to the east shore to a point 35° 52.0115' N - 75°  
18 38.1792' W; and west and south of a line beginning on the north shore at a point 35°  
19 53.3655' N - 75° 38.0254' W; running southeasterly to the south shore to a point 35°  
20 53.3474' N - 75° 37.9430' W;

21 (2) In the Northern Pamlico Sound Area:

22 (a) Long Shoal River:

23 (i) Long Shoal River - northwest of a line beginning on the north shore at a point 35°  
24 38.0175' N - 75° 52.9270' W; running southwesterly to the south shore to a point  
25 35° 37.8369' N - 75° 53.1060' W;

26 (ii) Deep Creek - southeast of a line beginning on the north shore at a point 35°  
27 37.7346' N - 75° 52.1383' W; running southwesterly to the south shore to a point  
28 35° 37.6673' N - 75° 52.2997' W;

29 (iii) Broad Creek - west of a line beginning on the north shore at a point 35° 35.9820'  
30 N - 75° 53.6789' W; running southerly to the south shore to a point 35° 35.7093'  
31 N - 75° 53.7335' W;

32 (iv) Muddy Creek - east of a line beginning on the north shore at a point 35° 36.4566'  
33 N - 75° 52.1460' W; running southerly to the south shore to a point 35° 36.2828'  
34 N - 75° 52.1640' W;

35 (v) Pains Bay - north of a line beginning on the west shore at a point 35° 35.4517'  
36 N - 75° 49.1414' W; running easterly to the east shore to a point 35° 35.4261'  
37 N - 75° 48.8029' W;

- (vi) Otter Creek - southwest of a line beginning on the west shore at a point 35° 33.2597' N - 75° 55.2129' W; running easterly to the east shore to a point 35° 33.1995' N - 75° 54.8949' W; and
- (vii) Clark Creek - northeast of a line beginning on the north shore at a point 35° 35.7776' N - 75° 51.4652' W; running southeasterly to the south shore to a point 35° 35.7128' N - 75° 51.4188' W;
- (b) Far Creek - west of a line beginning on the north shore at a point 35° 30.9782' N - 75° 57.7611' W; running southerly to Gibbs Point to a point 35° 30.1375' N - 75° 57.8108' W;
- (c) Middletown Creek - west of a line beginning on the north shore at a point 35° 28.4868' N - 75° 59.8186' W; running southwesterly to the south shore to a point 35° 28.1919' N - 76° 00.0216' W;
- (d) Wysocking Bay:
- (i) Lone Tree Creek - east of a line beginning on the north shore at a point 35° 25.6048' N - 76° 02.3577' W; running southeasterly to the south shore to a point 35° 25.1189' N - 76° 02.0499' W;
- (ii) Wysocking Bay - north of a line beginning on the west shore at a point 35° 25.7793' N - 76° 03.5773' W; running northeasterly to the east shore to a point 35° 25.9585' N - 76° 02.9055' W;
- (iii) Douglas Bay - northwest of a line beginning on Mackey Point at a point 35° 25.2627' N - 76° 03.1702' W; running southwesterly to the south shore to a point 35° 24.8225' N - 76° 03.6353' W; and
- (iv) Tributaries west of Brown Island - west of a line beginning on Brown Island at a point 35° 24.3606' N - 76° 04.4557' W; running southerly to the north shore of Brown Island to a point 35° 24.2081' N - 76° 04.4622' W; and northwest of a line beginning on the south shore of Brown Island at a point 35° 23.8255' N - 76° 04.4761' W; running southwesterly to a point 35° 23.6543' N - 76° 04.8630' W;
- (e) East Bluff Bay - Harbor Creek east of a line beginning on the north shore at a point 35° 21.5762' N - 76° 07.8755' W; running southerly to a point 35° 21.4640' N - 76° 07.8750' W; running easterly to the south shore to a point 35° 21.4332' N - 76° 07.7211' W;
- (f) Cunning Harbor tributaries - north of a line beginning on the west shore at a point 35° 20.7567' N - 76° 12.6379' W; running easterly to the east shore to a point 35° 20.7281' N - 76° 12.2292' W;
- (g) Juniper Bay:
- (i) Upper Juniper Bay - north of a line beginning on the west shore at a point 35° 23.1687' N - 76° 15.1921' W; running easterly to the east shore to a point 35° 23.1640' N - 76° 14.9892' W;

- (ii) Rattlesnake Creek - west of a line beginning on the north shore at a point 35° 22.9453' N - 76° 15.2748' W, running southerly to the south shore to a point 35° 22.8638' N - 76° 15.3461' W;
- (iii) Buck Creek - north of a line beginning on the west shore at a point 35° 21.5220' N - 76° 13.8865' W; running southeasterly to the east shore to a point 35° 21.3593' N - 76° 13.7039' W;
- (iv) Laurel Creek - east of a line beginning on the north shore at a point 35° 20.6693' N - 76° 13.3177' W; running southerly to the south shore to a point 35° 20.6082' N - 76° 13.3305' W; and
- (v) Old Haulover - west of a line beginning on the north shore at a point 35° 22.0186' N - 76° 15.6736' W; running southerly to the south shore to a point 35° 21.9708' N - 76° 15.6825' W;
- (h) Swanquarter Bay:
- (i) Upper Swanquarter Bay - north of a line beginning on the west shore at a point 35° 23.5651' N - 76° 20.6715' W; running easterly to the east shore to a point 35° 23.6988' N - 76° 20.0025' W;
- (ii) Oyster Creek - east of a line beginning on the north shore at a point 35° 23.1214' N - 76° 19.0026' W; running southeasterly to the south shore to a point 35° 23.0117' N - 76° 18.9591' W; and
- (iii) Caffee Bay:
- (A) Unnamed tributary - north of a line beginning on the west shore at a point 35° 22.1604' N - 76° 18.9140' W; running easterly to the east shore to a point 35° 22.1063' N - 76° 18.7500' W;
- (B) Unnamed tributary - north of a line beginning on the west shore at a point 35° 22.1573' N - 76° 18.5101' W; running easterly to the east shore to a point 35° 22.1079' N - 76° 18.1562' W; and
- (C) Upper Caffee Bay (Haulover) - east of a line beginning on the north shore at a point 35° 21.8499' N - 76° 17.5199' W; running southerly to the south shore to a point 35° 21.5451' N - 76° 17.4966' W;
- (i) Rose Bay:
- (i) Rose Bay - north of a line beginning on the west shore at a point 35° 26.6543' N - 76° 25.3992' W; running easterly to Channel Marker "6"; running northeasterly to Watch Point to a point 35° 26.8515' N - 76° 25.0055' W;
- (ii) Island Point Creek - west of a line beginning on the north shore at a point 35° 26.0413' N - 76° 25.0452' W; running southeasterly to the south shore to a point 35° 25.9295' N - 76° 24.9882' W;



- (iii) Tooley Creek - west of a line beginning on the north shore at a point 35° 25.4937' N - 76° 25.5324' W; running southerly to the south shore to a point 35° 25.1819' N - 76° 25.5776' W;
- (iv) Broad Creek - east of a line beginning on the north shore at a point 35° 24.4620' N - 76° 23.3398' W; running southwesterly to the south shore to a point 35° 24.2352' N - 76° 23.5158' W;
- (v) Lightwood Snag Bay - northwest of a line beginning on the north shore at a point 35° 24.3340' N - 76° 25.9680' W; running southwesterly to a point 35° 24.2610' N - 76° 26.1800' W; running southwesterly to a point on the shore 35° 23.9270' N - 76° 26.3300' W;
- (vi) Deep Bay:
- (A) Old Haulover - north of a line beginning on the west shore at a point 35° 23.2140' N - 76° 22.8560' W; running easterly to the east shore to a point 35° 23.2124' N - 76° 22.7340' W; and
- (B) Drum Cove (Stinking Creek) - south of a line beginning on the west shore at a point 35° 22.5212' N - 76° 24.7321' W; running southeasterly to the east shore to a point 35° 22.4282' N - 76° 24.5147' W; and
- (vii) Eastern tributaries (Cedar Hammock and Long Creek) - east of a line beginning on the north shore at a point 35° 24.9119' N - 76° 23.1587' W; running southerly to the south shore to a point 35° 24.6700' N - 76° 23.2171' W;
- (j) Spencer Bay:
- (i) Germantown Bay:
- (A) Ditch Creek - northwest of a line beginning on the north shore at a point 35° 24.1874' N - 76° 27.8527' W; running southwesterly to the south shore to a point 35° 24.0937' N - 76° 27.9348' W;
- (B) Jenette Creek - northwest of a line beginning on the north shore at a point 35° 24.5054' N - 76° 27.6258' W; running southwesterly to the south shore to a point 35° 24.4642' N - 76° 27.6659' W;
- (C) Headwaters of Germantown Bay - north of a line beginning on the west shore at a point 35° 24.8345' N - 76° 27.2605' W; running southeasterly to the east shore to a point 35° 24.6210' N - 76° 26.9221' W; and
- (D) Swan Creek - southeast of a line beginning on the north shore at a point 35° 24.4783' N - 76° 27.1513' W; running southwesterly to the south shore to a point 35° 24.3899' N - 76° 27.2809' W;
- (ii) Unnamed tributary - west of a line beginning on the north shore at a point 35° 22.9741' N - 76° 28.3469' W; running southerly to the south shore to a point 35° 22.8158' N - 76° 28.3280' W;

- (iii) Unnamed tributary - west of a line beginning on the north shore at a point 35° 23.1375' N - 76° 28.5681' W; running southerly to the south shore to a point 35° 23.0209' N - 76° 28.5060' W;
- (iv) Unnamed tributary - southwest of a line beginning on the north shore at a point 35° 23.3775' N - 76° 28.7332' W; running southeasterly to the south shore to a point 35° 23.3297' N - 76° 28.5608' W;
- (v) Unnamed tributaries - northwest of a line beginning on the north shore at a point 35° 23.7207' N - 76° 28.6590' W; running southwesterly to the south shore to a point 35° 23.4738' N - 76° 28.7763' W;
- (vi) Upper Spencer Bay - northwest of a line beginning on the north shore at a point 35° 24.3129' N - 76° 28.5300' W; running southwesterly to the south shore to a point 35° 23.9681' N - 76° 28.7671' W; and
- (vii) Spencer Creek - east of a line beginning on the north shore at a point 35° 23.9990' N - 76° 27.3702' W; running southerly to the south shore to a point 35° 23.8598' N - 76° 27.4037' W;
- (k) Long Creek - north of a line beginning on the west shore at a point 35° 22.4678' N - 76° 28.7868' W; running southeasterly to the east shore to a point 35° 22.3810' N - 76° 28.7064' W;
- (l) Willow Creek - east of a line beginning on the north shore at a point 35° 23.1370' N - 76° 29.8829' W; running southeasterly to the south shore to a point 35° 22.9353' N - 76° 29.7215' W;
- (m) Abels Bay - north and east of a line beginning on the west shore at a point 35° 24.1072' N - 76° 30.3848' W; running southeasterly to the east shore to a point 35° 23.9898' N - 76° 30.1178' W; thence running southerly to the south shore to a point 35° 23.6947' N - 76° 30.1900' W; and
- (n) Crooked Creek - north of a line beginning on the west shore at a point 35° 24.4138' N - 76° 32.2124' W; running easterly to the east shore to a point 35° 24.3842' N - 76° 32.0419' W;
- (3) In the Pungo River Area:
- (a) Fortescue Creek:
- (i) Headwaters of Fortescue Creek - southeast of a line beginning on the south shore at a point 35° 25.5379' N - 76° 30.6923' W; running easterly to the north shore to a point 35° 25.5008' N - 76° 30.5537' W;
- (ii) Warner Creek - north of a line beginning on the west shore at a point 35° 26.2778' N - 76° 31.5463' W; running easterly to the east shore to a point 35° 26.3215' N - 76° 31.4522' W;

- 1 (iii) Island Creek - north of a line beginning on the west shore at a point 35° 26.1342'  
2 N - 76° 32.3883' W; running easterly to the east shore to a point 35° 26.1203'  
3 N - 76° 32.2603' W;
- 4 (iv) Dixon Creek - south of a line beginning on the west shore at a point 35° 25.5766'  
5 N - 76° 31.8489' W; running easterly to the east shore to a point 35° 25.5865'  
6 N - 76° 31.6960' W;
- 7 (v) Pasture Creek - north of a line beginning on the west shore at a point 35° 25.9437'  
8 N - 76° 31.8468' W; running southwesterly to the east shore to a point 35°  
9 25.9918' N - 76° 31.7224' W;
- 10 (vi) Cox, Snell, and Seer Creeks - northeast of a line beginning on the west shore at a  
11 point 35° 26.0496' N - 76° 31.2087' W; running southeasterly to the east shore to  
12 a point 35° 25.8497' N - 76° 30.8828' W;
- 13 (vii) Unnamed tributary on the north side of Fortescue Creek - northeast of a line  
14 beginning on the west shore at a point 35° 25.7722' N - 76° 30.7825' W; running  
15 southeasterly to the east shore to a point 35° 25.7374' N - 76° 30.7102' W; and
- 16 (viii) Runway Creek - northeast of a line beginning on the west shore at a point 35°  
17 25.6547' N - 76° 30.6637' W; running easterly to the east shore to a point 35°  
18 25.6113' N - 76° 30.5714' W;
- 19 (b) Slade Creek:
- 20 (i) Upper Slade Creek - south of a line beginning on the north shore at a point 35°  
21 27.9168' N - 76° 30.5189' W; running westerly to the south shore to a point 35°  
22 27.9532' N - 76° 30.7140' W;
- 23 (ii) Jarvis Creek - northeast of a line beginning on the west shore at a point 35°  
24 28.2450' N - 76° 30.8921' W; running southeasterly to the east shore to a point  
25 35° 28.2240' N - 76° 30.8200' W;
- 26 (iii) Jones Creek - south of a line beginning on the west shore at a point 35° 28.0077'  
27 N - 76° 30.9337' W; running southeasterly to the east shore to a point 35° 27.9430'  
28 N - 76° 30.8938' W;
- 29 (iv) Becky Creek - north of a line beginning on the west shore at a point 35° 28.6081'  
30 N - 76° 31.6886' W; running northeasterly to the east shore to a point 35° 28.6297'  
31 N - 76° 31.6073' W;
- 32 (v) Neal Creek - north of a line beginning on the west shore at a point 35° 28.7797'  
33 N - 76° 31.8657' W; running northeasterly to the east shore to a point 35° 28.8084'  
34 N - 76° 31.7727' W;
- 35 (vi) Wood Creek - north of a line beginning on the west shore at a point 35° 28.5788'  
36 N - 76° 32.4163' W; running northeasterly to the east shore to a point 35° 28.6464'  
37 N - 76° 32.3339' W;

- (vii) Spellman Creek - north of a line beginning on the east shore at a point 35° 28.2233' N - 76° 32.6827' W; running southwesterly to the west shore to a point 35° 28.2567' N - 76° 32.6533' W;
- (viii) Speer Creek - east of a line beginning on the north shore at a point 35° 27.9680' N - 76° 32.3593' W; running southerly to the south shore to a point 35° 27.9216' N - 76° 32.3862' W;
- (ix) Church Creek and Speer Gut - east of a line beginning on the north shore at a point 35° 27.5910' N - 76° 32.7412' W; running southwesterly to the south shore to a point 35° 27.5282' N - 76° 32.8227' W; and
- (x) Allison and Foreman Creek - south of a line beginning on Parmalee Point at a point 35° 27.2812' N - 76° 33.0634' W; running southwesterly to the west shore to a point 35° 27.2418' N - 76° 33.1451' W;
- (c) Flax Pond - west of a line beginning the north shore at a point 35° 32.0297' N - 76° 33.0389' W; running southwesterly to the south shore to a point 35° 31.9212' N - 76° 33.2061' W; and
- (d) Battalina and Tooleys creeks - northwest of a line beginning on the north shore at a point 35° 32.3914' N - 76° 36.1548' W; running southwesterly to the south shore to a point 35° 32.0627' N - 76° 36.3769' W;
- (4) In the Pamlico River Area:
- (a) North Creek:
- (i) North Creek - north of a line beginning on the west shore at a point 35° 25.6764' N - 76° 39.9970' W; running northeasterly to the east shore to a point 35° 25.5870' N - 76° 40.0806' W;
- (ii) East Fork:
- (A) Northeast of a line beginning on the west shore at a point 35° 25.8000' N - 76° 39.2679' W; running southeasterly to the east shore to a point 35° 25.6914' N - 76° 39.1374' W; and
- (B) Unnamed tributary of East Fork - northwest of a line beginning on the north shore at a point 35° 25.6950' N - 76° 39.4337' W; running southwesterly to the south shore to a point 35° 25.6445' N - 76° 39.4698' W;
- (iii) Frying Pan Creek - east of a line beginning on the north shore at a point 35° 24.9881' N - 76° 39.5948' W; running southwesterly to Chambers Point to a point 35° 24.8508' N - 76° 39.6811' W; and
- (iv) Little Ease Creek - west of a line beginning on the north shore at a point 35° 25.1463' N - 76° 40.3490' W; running southwesterly to Cousin Point to a point 35° 25.0075' N - 76° 40.4159' W;

- (b) Goose Creek:
- (i) Hatter Creek - west of a line beginning on the north shore at a point 35° 19.9593' N - 76° 37.5992' W; running southerly to the south shore to a point 35° 19.9000' N - 76° 37.5904' W;
  - (ii) Upper Spring Creek:
    - (A) Headwaters of Upper Spring Creek - east of a line beginning on the north shore at a point 35° 16.3636' N - 76° 36.0568' W; running southeasterly to the south shore to a point 35° 16.1857' N - 76° 36.0111' W; and
    - (B) Unnamed tributary - north of a line beginning on the west shore at a point 35° 16.8386' N - 76° 36.4447' W; running easterly to the east shore to a point 35° 16.8222' N - 76° 36.3811' W;
  - (iii) Eastham Creek - east of a line beginning on the north shore at a point 35° 17.7423' N - 76° 36.5164' W; running southeasterly to the south shore to a point 35° 17.5444' N - 76° 36.3963' W;
  - (iv) Mud Gut - northeast of a line beginning on the north shore at a point 35° 17.8754' N - 76° 36.7704' W; running southeasterly to the south shore to a point 35° 17.8166' N - 76° 36.7468' W;
  - (v) Wilkerson Creek - east of a line beginning on the north shore at a point 35° 18.4096' N - 76° 36.7479' W; running southwesterly to the south shore to a point 35° 18.3542' N - 76° 36.7741' W; and
  - (vi) Dixon Creek - east of a line beginning on the north shore at a point 35° 18.8893' N - 76° 36.5973' W; running southerly to the south shore to a point 35° 18.5887' N - 76° 36.7142' W; and
- (c) Oyster Creek - Middle Prong:
- (i) Oyster Creek:
    - (A) West of a line, beginning on the north shore at a point 35° 19.4780' N - 76° 34.0131' W; running southerly to the south shore to a point 35° 19.3796' N - 76° 34.0021' W; and
    - (B) Duck Creek - south of a line beginning on the west shore at a point 35° 19.0959' N - 76° 33.2998' W; running northeasterly to the east shore to a point 35° 19.1553' N - 76° 33.2027' W;
  - (ii) James Creek - southwest of a line beginning on the north shore at a point 35° 18.6045' N - 76° 32.3233' W; running southeasterly to James Creek Point at a point 35° 18.4805' N - 76° 32.0240' W;
  - (iii) Middle Prong - south of a line beginning on the west shore at a point 35° 17.8888' N - 76° 31.9379' W; running southerly to the east shore to a point 35° 17.7323' N - 76° 31.9052' W; and

- (iv) Clark Creek:
- (A) Headwaters of Clark Creek (including Mouse Harbor Ditch) - southeast of a line beginning on the west shore at a point 35° 18.1028' N - 76° 31.1661' W; running northeasterly to the east shore to a point 35° 18.1907' N - 76° 31.0610' W; and
- (B) Boat Creek - east of a line beginning on the north shore at a point 35° 18.5520' N - 76° 31.2927' W; running southerly to the south shore to a point 35° 18.4189' N - 76° 31.2660' W;
- (5) In the Western Pamlico Sound Area:
- (a) Mouse Harbor:
- (i) Long Creek - north of a line beginning on the west shore at a point 35° 18.4025' N - 76° 29.8139' W; running northeasterly to the east shore to a point 35° 18.4907' N - 76° 29.5652' W;
- (ii) Lighthouse Creek - north of a line beginning on the west shore at a point 35° 18.5166' N - 76° 29.2166' W; running southeasterly to the east shore to a point 35° 18.4666' N - 76° 29.1666' W; and
- (iii) Cedar Creek and Island creeks - south of a line beginning on the west shore at a point 35° 16.9073' N - 76° 29.8667' W; running southeasterly to the east shore to a point 35° 16.6800' N - 76° 29.4500' W;
- (b) Porpoise Creek - west of a line beginning on the north shore at a point 35° 15.7263' N - 76° 29.4897' W; running southeasterly to the south shore to a point 35° 15.6335' N - 76° 29.3346' W;
- (c) Middle Bay:
- (i) Middle Bay - west of a line beginning on the north shore at a point 35° 14.6137' N - 76° 30.8086' W; running southeasterly to the south shore to a point 35° 14.0631' N - 76° 30.5176' W; and
- (ii) Little Oyster Creek - north of a line beginning on the west shore at a point 35° 14.4745' N - 76° 30.2111' W; running northeasterly to the east shore to a point 35° 14.5825' N - 76° 29.9144' W; and
- (d) Jones Bay, west of the IWW:
- (i) Little Drum Creek and Little Eve Creek - south of a line beginning on the west shore at a point 35° 12.4380' N - 76° 31.7428' W; running southeasterly to the east shore to a point 35° 12.3499' N - 76° 31.2554' W;
- (ii) Ditch Creek - south of a line beginning on the west shore at a point 35° 13.3609' N - 76° 33.6539' W; running southeasterly to the east shore to a point 35° 13.2646' N - 76° 33.1996' W;

- (iii) Lambert Creek - west of a line beginning on the north shore at a point 35° 13.8980' N - 76° 34.3078' W; running southeasterly to the south shore to a point 35° 13.8354' N - 76° 34.2665' W;
    - (iv) Headwaters of Jones Bay, (west of the IWW) - west of a line beginning on the north shore at a point 35° 14.4684' N - 76° 35.4307' W; running southerly to the south shore to a point 35° 14.3947' N - 76° 35.4205' W;
    - (v) Bills Creek - north of a line beginning on the west shore at a point 35° 14.4162' N - 76° 34.8566' W; running northerly to the east shore to a point 35° 14.4391' N - 76° 34.7248' W;
    - (vi) Doll Creek - north of a line beginning on the west shore at a point 35° 14.3320' N - 76° 34.2935' W; running southeasterly to the east shore to a point 35° 14.2710' N - 76° 34.0406' W; and
    - (vii) Drum Creek - north of a line beginning on the west shore at a point 35° 14.1764' N - 76° 33.2632' W; running easterly to the east shore to a point 35° 14.1620' N - 76° 33.0614' W;
  - (6) In the Bay River Area:
    - (a) Mason Creek - southeast of a line beginning on the north shore at a point 35° 08.2531' N - 76° 41.4897' W; running southwesterly to the west shore to a point 35° 08.1720' N - 76° 41.6340' W;
    - (b) Moore Creek - southeast of a line beginning on the north shore at a point 35° 08.9671' N - 76° 40.2017' W; running southeasterly to the south shore to a point 35° 08.8629' N - 76° 40.1598' W;
    - (c) Small tributaries from Bell Point to Ball Creek:
      - (i) Tributary west of Bell Point - south of a line beginning on the west shore at a point 35° 09.9536' N - 76° 39.3977' W; running northeasterly to the east shore to a point 35° 09.9970' N - 76° 39.3420' W;
      - (ii) Little Pasture Creek - south of a line beginning on the west shore at a point 35° 09.8944' N - 76° 39.1483' W; running southeasterly to the east shore to a point 35° 09.8417' N - 76° 39.1130' W; and
      - (iii) Rice Creek - south of a line beginning on the west shore at a point 35° 09.7616' N - 76° 38.9686' W; running southeasterly to the east shore to a point 35° 09.7378' N - 76° 38.8833' W;
    - (d) Ball and Cabin creeks - south of a line beginning on the west shore at a point 35° 09.6479' N - 76° 37.9973' W; running southeasterly to the east shore to a point 35° 09.5589' N - 76° 37.5879' W;
    - (e) Bonner Bay:

- (i) Riggs Creek - west of a line beginning on the north shore at a point 35° 09.4050' N - 76° 36.2205' W; running southeasterly to the south shore to a point 35° 09.2298' N - 76° 36.0949' W;
- (ii) Spring Creek - west of a line beginning on the north shore at a point 35° 08.5149' N - 76° 36.0799' W; running southerly to the south shore to a point 35° 08.3575' N - 76° 36.0713' W;
- (iii) Bryan and Ives creeks - south of a line beginning on the west shore at a point 35° 08.3632' N - 76° 35.8653' W; running northeasterly to the east shore to a point 35° 08.4109' N - 76° 35.7075' W;
- (iv) Long Creek Gut - north of a line beginning on the west shore at a point 35° 09.1993' N - 76° 34.8517' W; running easterly to the east shore to a point 35° 09.1987' N - 76° 34.5373' W;
- (v) Dipping Vat Creek - east of a line beginning on the north shore at a point 35° 09.2734' N - 76° 34.3363' W; running southerly to the south shore to a point 35° 09.1212' N - 76° 34.3667' W;
- (vi) Long Creek - east of a line beginning on the west shore at a point 35° 08.1404' N - 76° 34.5741' W; running northeasterly to the east shore to a point 35° 08.2078' N - 76° 34.4819' W; and
- (vii) Cow Gallus Creek - west of a line beginning on the north shore at a point 35° 08.5125' N - 76° 34.6417' W; running southerly to the south shore to a point 35° 08.4083' N - 76° 34.6131' W;
- (f) Rock Hole Bay - northeast of a line beginning on the west shore at a point 35° 11.6478' N - 76° 32.5840' W; running southeasterly to the east shore to a point 35° 11.2664' N - 76° 32.2160' W;
- (g) Dump Creek - north of a line beginning on the west shore at a point 35° 11.7105' N - 76° 33.4228' W; running easterly to the east shore to a point 35° 11.7174' N - 76° 33.1807' W;
- (h) Tributaries east of IWW at Gales Creek:
  - (i) Raccoon Creek - east of a line beginning on the north shore at a point 35° 12.9169' N - 76° 35.4930' W; running southeasterly to the south shore to a point 35° 12.6515' N - 76° 35.3368' W; and
  - (ii) Ditch Creek - east of a line beginning on the north shore at a point 35° 12.4460' N - 76° 35.0707' W; running southeasterly to the south shore to a point 35° 12.3495' N - 76° 34.9917' W;
- (i) Tributaries west of IWW at Gales Creek:
  - (i) Jumpover Creek - west of a line beginning on the north shore at a point 35° 13.2830' N - 76° 35.5843' W; running southerly to the south shore to a point 35° 13.2035' N - 76° 35.5844' W;



- 1 (ii) Gales Creek - west of a line beginning on the north shore at a point 35° 12.9653'  
2 N - 76° 35.6600' W; running southerly to the south shore to a point 35° 12.8032'  
3 N - 76° 35.6366' W; and
- 4 (iii) Whealton and Tar creeks - west of a line beginning on the north shore at a point  
5 35° 12.7334' N - 76° 35.5430' W; running southeasterly to the south shore to a  
6 point 35° 12.4413' N - 76° 35.3594' W;
- 7 (j) Chadwick and No Jacket creeks - north of a line beginning on the west shore at a point 35°  
8 11.9511' N - 76° 35.8899' W; running northeasterly to the east shore to a point 35° 12.0599'  
9 N - 76° 35.3973' W;
- 10 (k) Bear Creek - west of a line beginning on the north shore at a point 35° 11.7526' N - 76°  
11 36.2721' W; running southwesterly to the south shore to a point 35° 11.5781' N - 76°  
12 36.3366' W;
- 13 (l) Little Bear Creek - north of a line beginning on the west shore at a point 35° 11.1000'  
14 N - 76° 36.3060' W; running northeasterly to the east shore to a point 35° 11.2742' N - 76°  
15 35.9822' W;
- 16 (m) Tributaries to Bay River from Petty Point to Sanders Point:
- 17 (i) Oyster Creek - north of a line beginning on the west shore at a point 35° 10.7971'  
18 N - 76° 36.7399' W; running northeasterly to the east shore to a point 35° 10.9493'  
19 N - 76° 36.4878' W;
- 20 (ii) Potter Creek - north of a line beginning on the west shore at a point 35° 10.7259'  
21 N - 76° 37.0764' W; running northeasterly to the east shore to a point 35° 10.7778'  
22 N - 76° 36.7933' W;
- 23 (iii) Barnes and Gascon creeks - north of a line beginning on the west shore at a point  
24 35° 10.6396' N - 76° 37.3137' W; running northeasterly to the east shore to a point  
25 35° 10.6929' N - 76° 37.2087' W;
- 26 (iv) Harris Creek - north of a line beginning on the west shore at a point 35° 10.5922'  
27 N - 76° 37.5333' W; running northeasterly to the east shore to a point 35° 10.6007'  
28 N - 76° 37.5103' W; and
- 29 (v) Mesic Creek - north of a line beginning on the west shore at a point 35° 10.5087'  
30 N - 76° 37.9520' W; running easterly to the east shore to a point 35° 10.4830'  
31 N - 76° 37.8477' W;
- 32 (n) In Vandemere Creek:
- 33 (i) Cedar Creek - north of a line beginning on the west shore at a point 35° 11.2495'  
34 N - 76° 39.5727' W; running northeasterly to the east shore to a point 35° 11.2657'  
35 N - 76° 39.5238' W;

- (ii) Long Creek - east of a line beginning on the north shore at a point 35° 11.4779' N - 76° 38.7790' W; running southerly to the south shore to a point 35° 11.4220' N - 76° 38.7521' W; and
    - (iii) Little Vandemere Creek - north of a line beginning on the west shore at a point 35° 12.1449' N - 76° 39.2620' W; running southeasterly to the east shore to a point 35° 12.1182' N - 76° 39.1993' W;
  - (o) Smith Creek - north of a line beginning on the west shore to a point 35° 10.4058' N - 76° 40.2565' W; running northeasterly to the east shore to a point 35° 10.4703' N - 76° 40.1593' W;
  - (p) Harper Creek - west of a line beginning on the north shore at a point 35° 09.2767' N - 76° 41.8489' W; running southwesterly to the south shore to a point 35° 09.1449' N - 76° 41.9137' W;
  - (q) Chapel Creek - north of a line beginning on the west shore at a point 35° 08.9333' N - 76° 42.8382' W; running northeasterly to the east shore to a point 35° 08.9934' N - 76° 42.7694' W; and
  - (r) Swindell Bay - south of a line beginning on the west shore at a point 35° 08.2580' N - 76° 42.9380' W; running southeasterly to the east shore to a point 35° 08.2083' N - 76° 42.8031' W;
- (7) In the Neuse River Area North Shore:
  - (a) Swan Creek - west of a line beginning on the south shore at a point 35° 06.5470' N - 76° 33.8203' W; running northeasterly to a point 35° 06.4155' N - 76° 33.9479' W; running to the south shore of Swan Island to a point 35° 06.3168' N - 76° 34.0263' W; running northeasterly to a point 35° 06.6705' N - 76° 33.7307' W, running northeasterly to the north shore to a point 35° 06.8183' N - 76° 33.5971' W;
  - (b) Broad Creek:
    - (i) Greens Creek - north of a line beginning on the west shore at a point 35° 06.0730' N - 76° 35.5110' W; running southeasterly to the east shore to a point 35° 05.9774' N - 76° 35.3704' W;
    - (ii) Pittman Creek - north of a line beginning on the west shore at a point 35° 05.8143' N - 76° 36.1475' W; running northeasterly to the east shore to a point 35° 05.8840' N - 76° 36.0144' W;
    - (iii) Burton Creek - west of a line beginning on the north shore at a point 35° 05.7174' N - 76° 36.4797' W; running southwesterly to the south shore to a point 35° 05.6278' N - 76° 36.5067' W;
    - (iv) All tributaries on the north shore of Broad Creek - north of a line beginning on the west shore of the western most tributary at a point 35° 05.5350' N - 76° 37.4058' W; running easterly to a point 35° 05.4752' N - 76° 36.9672' W; running

- 1 to a point 35° 05.4868' N - 76° 36.9163' W; north of a line beginning on the west  
2 shore of the eastern most tributary at 35° 05.4415' N - 76° 36.7869' W, running  
3 northeasterly to a point 35° 05.4664' N - 76° 36.7540' W;
- 4 (v) Brown Creek - northwest of a line beginning on the west shore at a point 35°  
5 05.5310' N - 76° 37.8132' W; running northeasterly to the east shore to a point  
6 35° 05.5737' N - 76° 37.6908' W;
- 7 (vi) Broad Creek including Gideon Creek - west of a line beginning on the north shore  
8 at a point 35° 05.5310' N - 76° 37.8132' W; running southerly to the south shore  
9 to a point 35° 05.3212' N - 76° 37.8398' W;
- 10 (vii) Tar Creek - south of a line beginning on the west shore at a point 35° 05.2604'  
11 N - 76° 37.5093' W; running easterly to the east shore to a point 35° 05.2728'  
12 N - 76° 37.6251' W;
- 13 (viii) Tributary east of Tar Creek - south of a line beginning on the west shore at a point  
14 35° 05.3047' N - 76° 37.0316' W; running easterly to the east shore to a point 35°  
15 05.2674' N - 76° 36.8086' W;
- 16 (ix) Tributary east of Tar Creek - south of a line beginning on the west shore at a point  
17 35° 05.2674' N - 76° 36.8086' W; running easterly to the east shore to a point 35°  
18 05.2445' N - 76° 36.5416' W;
- 19 (x) Parris Creek - south of a line beginning on the west shore at a point 35° 05.2445'  
20 N - 76° 36.5416' W; running southeasterly to the east shore to a point 35° 05.2031'  
21 N - 76° 36.4573' W;
- 22 (xi) Mill Creek - south of a line beginning on the west shore at a point 35° 05.4439'  
23 N - 76° 36.0260' W; running northeasterly to the east shore to a point 35° 05.4721'  
24 N - 76° 35.8835' W; and
- 25 (xii) Cedar Creek - south of a line beginning on the west shore at a point 35° 05.3711'  
26 N - 76° 35.6556' W; running southeasterly to the east shore to a point 35° 05.2867'  
27 N - 76° 35.5348' W;
- 28 (c) Orchard and Old House creeks - north of a line beginning on the west shore at a point 35°  
29 03.3302' N - 76° 38.4478' W; running northeasterly to the east shore to a point 35° 03.6712'  
30 N - 76° 37.9040' W;
- 31 (d) Pierce Creek - north of a line beginning on the west shore at a point 35° 02.5030' N - 76°  
32 40.0536' W; running northeasterly to the east shore to a point 35° 02.5264' N - 76° 39.9901'  
33 W;
- 34 (e) Whittaker Creek - north of a line beginning on the west shore at a point 35° 01.7186' N - 76°  
35 41.1309' W; running easterly to the east shore to a point 35° 01.6702' N - 76° 40.9036' W;
- 36 (f) Oriental:

- (i) Smith and Morris creeks - north of a line beginning on the west shore at a point 35° 02.1553' N - 76° 42.2931' W; running southeasterly to the east shore to a point 35° 02.1097' N - 76° 42.1806' W;
    - (ii) Unnamed tributary west of Dewey Point - north of a line beginning on the west shore at a point 35° 01.3704' N - 76° 42.4906' W; running northeasterly to the east shore to a point 35° 01.3530' N - 76° 42.4323' W;
    - (iii) Unnamed tributary on the south shore of Greens Creek - south of a line beginning on the west shore at a point 35° 01.4340' N - 76° 42.7920' W; running southeasterly to the east shore to a point 35° 01.4040' N - 76° 42.7320' W;
    - (iv) Unnamed tributary on the south shore of Greens Creek - south of a line beginning on the west shore at a point 35° 01.3680' N - 76° 42.4920' W; running southeasterly to the east shore to a point 35° 01.3560' N - 76° 42.4320' W;
    - (v) Greens Creek - west of a line beginning on the north shore at a point 35° 01.5985' N - 76° 42.9959' W; running southeasterly to the south shore to a point 35° 01.4759' N - 76° 42.9570' W;
    - (vi) Kershaw Creek - north of a line beginning on the west shore at a point 35° 01.5985' N - 76° 42.9959' W; running easterly to the east shore to a point 35° 01.6077' N - 76° 42.8459' W; and
    - (vii) Shop Gut Creek - west of a line beginning on the north shore at a point 35° 01.2720' N - 76° 42.1500' W; running southerly to the south shore to a point 35° 01.1700' N - 76° 42.1380' W;
  - (g) Dawson Creek:
    - (i) Unnamed eastern tributary of Dawson Creek - east of a line beginning on the north shore at a point 35° 00.2064' N - 76° 45.2652' W; running southeasterly to the south shore to a point 35° 00.1790' N - 76° 45.2289' W; and
    - (ii) Unnamed tributary of Dawson Creek (at mouth) - east of a line beginning on the north shore at a point 34° 59.6620' N - 76° 45.1156' W; running southerly to the south shore to a point 34° 59.6326' N - 76° 45.1177' W; and
  - (h) Beard Creek tributary - southeast of a line beginning on the north shore at a point 35° 00.3176' N - 76° 51.9098' W; running southwesterly to the southwest shore to a point 35° 00.1884' N - 76° 51.9850' W;
- (8) In the Neuse River Area South Shore:
  - (a) Clubfoot Creek - south of a line beginning on the west shore at a point 34° 52.4621' N - 76° 45.9256' W; running easterly to the east shore to a point 34° 52.4661' N - 76° 45.7567' W;
    - (i) Mitchell Creek - west of a line beginning on the north shore at a point 34° 54.4176' N - 76° 45.7680' W; running southerly to the south shore to a point 34° 54.2610' N - 76° 45.8277' W; and

- 1 (ii) Gulden Creek - east of a line beginning on the north shore at a point 34° 54.1760'  
2 N - 76° 45.4438' W; running southerly to the south shore to a point 34° 54.0719'  
3 N - 76° 45.4888' W;
- 4 (b) Adams Creek:
- 5 (i) Godfrey Creek - south of a line beginning on the west shore at a point 34° 57.3104'  
6 N - 76° 41.1292' W; running easterly to the east shore to a point 34° 57.2655'  
7 N - 76° 41.1187' W;
- 8 (ii) Delamar Creek - south of a line beginning on the west shore at a point 34° 57.0475'  
9 N - 76° 40.7230' W; running southeasterly to the east shore to a point 34° 57.0313'  
10 N - 76° 40.7015' W;
- 11 (iii) Kellum Creek - west of a line beginning on the north shore at a point 34° 55.5240'  
12 N - 76° 39.8072' W; running southeasterly to the south shore to a point 34°  
13 55.4356' N - 76° 39.8201' W;
- 14 (iv) Kearney Creek and unnamed tributary - west of a line beginning on the north  
15 shore of the north creek at a point 34° 55.1847' N - 76° 39.9686' W; running  
16 southerly to the south shore to a point 34° 54.9661' N - 76° 40.0091' W;
- 17 (v) Isaac Creek - south of a line beginning on the west shore at a point 34° 54.2457'  
18 N - 76° 40.1010' W; running easterly to the east shore to a point 34° 54.2630'  
19 N - 76° 40.0088' W;
- 20 (vi) Back Creek - southeast of a line beginning on the northeast shore at a point 34°  
21 54.6598' N - 76° 39.5257' W; running southwesterly to the southwest shore to a  
22 point 34° 54.5366' N - 76° 39.7075' W;
- 23 (vii) Cedar Creek - southeast of a line beginning on the west shore at a point 34°  
24 55.7759' N - 76° 38.6070' W; running easterly to the east shore to a point 34°  
25 55.7751' N - 76° 38.4965' W;
- 26 (viii) Jonaquin Creek - northeast of a line beginning on the west shore at a point 34°  
27 56.1192' N - 76° 38.4997' W; running easterly to the east shore to a point 34°  
28 56.1172' N - 76° 38.4584' W;
- 29 (ix) Dumpling Creek - east of a line beginning on the northwest shore at a point 34°  
30 56.9187' N - 76° 39.5559' W; running southeasterly to the southeast shore to a  
31 point 34° 56.8421' N - 76° 39.5155' W; and
- 32 (x) Sandy Huss Creek - northeast of a line beginning on the west shore at a point 34°  
33 57.2348' N - 76° 39.8457' W; running southeasterly to the east shore to a point  
34 34° 57.1638' N - 76° 39.7169' W;
- 35 (c) Garbacon Creek - south of a line beginning on the west shore at a point 34° 59.0044' N - 76°  
36 38.5758' W; running easterly to the east shore to a point 34° 59.0006' N - 76° 38.4845' W;
- 37 (d) South River:

- 1 (i) Big Creek - southwest of a line beginning on the northwest shore at a point 34°  
2 56.9502' N - 76° 35.3498' W; running southeasterly to the southeast shore to a  
3 point 34° 56.8346' N - 76° 35.2091' W; and  
4 (ii) Horton Bay - north of a line beginning on the west shore at a point 34° 59.1936'  
5 N - 76° 34.7657' W; running easterly to the east shore to a point 34° 59.2023'  
6 N - 76° 34.4586' W;  
7 (e) Brown Creek - south of a line beginning on the west shore at a point 34° 59.8887' N - 76°  
8 33.5707' W; running easterly to the east shore to a point 34° 59.9440' N - 76° 33.4180' W;  
9 and  
10 (f) Turnagain Bay:  
11 (i) Abraham Bay - west of a line beginning on the north shore at a point 35° 00.1780'  
12 N - 76° 30.7564' W; running southerly to the south shore to a point 34° 59.8338'  
13 N - 76° 30.7128' W;  
14 (ii) Broad Creek and Persons Creek - southwest of a line beginning at a point on the  
15 north shore 34° 59.1974' N - 76° 30.4118' W; running southeasterly to the south  
16 shore to a point 34° 58.9738' N - 76° 30.1168' W;  
17 (iii) Mulberry Point Creek - east of a line beginning on the north shore at a point 35°  
18 00.4736' N - 76° 29.7538' W; running southerly to the south shore to a point 35°  
19 00.3942' N - 76° 29.7082' W;  
20 (iv) Tump Creek - east of a line beginning on the north shore at a point 35° 00.2035'  
21 N - 76° 29.5947' W; running southerly to the south shore to a point 35° 00.0500'  
22 N - 76° 29.4897' W;  
23 (v) Tributary south of Tump Creek - east of a line beginning on the north shore at a  
24 point 34° 59.7784' N - 76° 29.3548' W; running southerly to the south shore to a  
25 point 34° 59.6830' N - 76° 29.3303' W;  
26 (vi) Deep Gut - northeast of a line beginning on the north shore at a point 34° 59.6134'  
27 N - 76° 29.0376' W; running southeasterly to the south shore to a point 34°  
28 59.4799' N - 76° 28.9362' W; and  
29 (vii) Big Gut - east of a line beginning on the north shore at a point 34° 59.0816' N - 76°  
30 28.7076' W; running southerly to the south shore to a point 34° 58.9300' N - 76°  
31 28.7383' W;  
32 (9) West Bay - Long Bay Area:  
33 (a) Fur Creek and Henrys Creek - southwest of a line beginning on the northwest shore at a  
34 point 34° 56.5580' N - 76° 27.7065' W; running southeasterly to the southeast shore to a  
35 point 34° 56.3830' N - 76° 27.4563' W; and

- (b) Cadduggen Creek - south of a line beginning on the west shore at a point  $34^{\circ} 56.5767'$  N -  $76^{\circ} 23.8711'$  W; running easterly to the east shore to a point  $34^{\circ} 56.2890'$  N -  $76^{\circ} 23.6626'$  W;
- (10) Core Sound Area:
- (a) Cedar Island Bay - northwest of a line beginning on the northeast shore at a point  $34^{\circ} 59.7770'$  N -  $76^{\circ} 17.3837'$  W; running southwesterly to the southwest shore to a point  $34^{\circ} 59.0100'$  N -  $76^{\circ} 17.9339'$  W;
- (b) Lewis Creek - north of a line beginning on the west shore at a point  $34^{\circ} 56.8736'$  N -  $76^{\circ} 16.8740'$  W; running easterly to the east shore to a point  $34^{\circ} 56.9455'$  N -  $76^{\circ} 16.8234'$  W;
- (c) Thorofare Bay:
- (i) Merkle Hammock Creek - southwest of a line beginning on the northwest shore at a point  $34^{\circ} 55.4796'$  N -  $76^{\circ} 21.4463'$  W; running southeasterly to the southeast shore to a point  $34^{\circ} 55.3915'$  N -  $76^{\circ} 21.1682'$  W; and
- (ii) Barry Bay - west of a line beginning on the north shore at a point  $34^{\circ} 54.6450'$  N -  $76^{\circ} 20.6127'$  W; running southerly to the south shore to a point  $34^{\circ} 54.4386'$  N -  $76^{\circ} 20.4912'$  W;
- (d) Nelson Bay:
- (i) Willis Creek and Fulchers Creek - west of a line beginning on the north shore of Willis Creek at a point  $34^{\circ} 51.1006'$  N -  $76^{\circ} 24.5996'$  W; running southerly to the south shore of Fulchers Creek to a point  $34^{\circ} 50.2861'$  N -  $76^{\circ} 24.8708'$  W; and
- (ii) Lewis Creek - west of a line beginning on the north shore at a point  $34^{\circ} 51.9362'$  N -  $76^{\circ} 24.6322'$  W; running southerly to the south shore to a point  $34^{\circ} 51.7323'$  N -  $76^{\circ} 24.6487'$  W;
- (e) Cedar Creek between Sea Level and Atlantic - west of a line beginning on the north shore at a point  $34^{\circ} 52.0126'$  N -  $76^{\circ} 22.7046'$  W; running southerly to the south shore to a point  $34^{\circ} 51.9902'$  N -  $76^{\circ} 22.7190'$  W;
- (f) Oyster Creek, northwest of the Highway 70 Bridge; and
- (g) Jarretts Bay Area:
- (i) Smyrna Creek - northwest of the Highway 70 Bridge;
- (ii) Ditch Cove and adjacent tributary - east of a line beginning on the north shore at a point  $34^{\circ} 48.0167'$  N -  $76^{\circ} 28.4674'$  W; running southerly to the south shore to a point  $34^{\circ} 47.6143'$  N -  $76^{\circ} 28.6473'$  W;
- (iii) Broad Creek - northwest of a line beginning on the west shore at a point  $34^{\circ} 47.7820'$  N -  $76^{\circ} 29.2724'$  W; running northeasterly to the east shore to a point  $34^{\circ} 47.9766'$  N -  $76^{\circ} 28.9729'$  W;

- (iv) Howland Creek - northwest of a line beginning on the northeast shore at a point 34° 47.5129' N - 76° 29.6217' W; running southwesterly to the southwest shore to a point 34° 47.3372' N - 76° 29.8607' W;
  - (v) Great Creek - southeast of a line beginning on the northeast shore at a point 34° 47.4279' N - 76° 28.9565' W; running southwesterly to the southwest shore to a point 34° 47.1515' N - 76° 29.2077' W;
  - (vi) Williston Creek - northwest of the Highway 70 Bridge;
  - (vii) Wade Creek - west of a line beginning on the north shore at a point ~~34° 46.3022' N - 76° 30.5443' W~~; 34° 46.3125' N - 76° 30.2676' W; running southerly to the south shore to a point ~~34° 46.2250' N - 76° 30.3864' W~~; 34° 46.1915' N - 76° 30.3593' W;
  - (viii) Jump Run - north of a line beginning on the west shore at a point 34° 45.5385' N - 76° 30.3974' W; running easterly to the east shore to a point 34° 45.5468' N - 76° 30.3485' W;
  - (ix) Middens Creek - west of a line beginning on the north shore at a point 34° 45.5046' N - 76° 30.9710' W; running southerly to the south shore to a point 34° 45.4093' N - 76° 30.9584' W;
  - (x) Tusk Creek - northwest of a line beginning on the northwest shore at a point 34° 44.8049' N - 76° 30.6248' W; running southerly to the south shore to a point 34° 44.6074' N - 76° 30.7553' W; and
  - (xi) Creek west of Bells Island - west of a line beginning on the north shore at a point 34° 43.9531' N - 76° 30.4144' W; running southerly to the south shore to a point 34° 43.7825' N - 76° 30.3543' W;
- (11) Straits, North River, Newport River Area:
- (a) Straits:
    - (i) Sleepy Creek - north of a line beginning on the west shore at a point 34° 43.3925' N - 76° 31.4912' W; running easterly to the east shore to a point 34° 43.3651' N - 76° 31.3250' W;
    - (ii) Dicks Creek - north of a line beginning on the west shore at a point 34° 43.3858' N - 76° 32.9125' W; running southeasterly to the east shore to a point 34° 43.3912' N - 76° 32.8605' W; and
    - (iii) Whitehurst Creek - north of a line beginning on the west shore at a point 34° 43.5118' N - 76° 33.3392' W; running northeasterly to the east shore to a point 34° 43.5561' N - 76° 33.1869' W;
  - (b) North River, north of Highway 70 Bridge:
    - (i) Ward Creek - north of Highway 70 Bridge:



- (A) North Leopard Creek - southeast of a line beginning on the southwest shore at a point 34° 45.9573' N - 76° 34.4208' W; running northeasterly to the northeast shore to a point 34° 46.0511' N - 76° 34.3170' W; and
- (B) South Leopard Creek - southeast of a line beginning on the southwest shore at a point 34° 45.4930' N - 76° 34.7622' W; running northeasterly to the northeast shore to a point 34° 45.5720' N - 76° 34.6236' W; and
- (ii) Turner Creek (Gibbs Creek) - west of a line beginning on the north shore at a point 34° 43.4693' N - 76° 37.6372' W; running southerly to the south shore to a point 34° 43.4054' N - 76° 37.6585' W; and
- (c) Newport River - west of a line beginning on the north shore at a point 34° 46.5635' N - 76° 44.3998' W; running southerly to Lawton Point to a point 34° 45.6840' N - 76° 44.0895' W;
- (i) Russel Creek - northeast of a line beginning on the north shore at a point 34° 45.5840' N - 76° 39.8020' W; running southeasterly to the south shore to a point 34° 45.5819' N - 76° 39.7895' W;
- (ii) Ware Creek - northeast of a line beginning on the north shore at a point 34° 46.4576' N - 76° 40.5020' W; running southeasterly to the south shore to a point 34° 46.4125' N - 76° 40.4460' W;
- (iii) Bell Creek - east of a line beginning on the north shore at a point 34° 47.2805' N - 76° 40.9082' W; running southerly to the south shore to a point 34° 47.0581' N - 76° 40.8854' W;
- (iv) Eastman Creek - east of a line beginning on the north shore at a point 34° 47.8640' N - 76° 41.0671' W; running southerly to the south shore to a point 34° 47.8027' N - 76° 41.0605' W;
- (v) Oyster Creek - north of a line beginning on the west shore at a point 34° 46.6610' N - 76° 42.5011' W; running easterly to the east shore to a point 34° 46.7161' N - 76° 42.3481' W;
- (vi) Harlow Creek - north of a line beginning on the west shore at a point 34° 46.7138' N - 76° 43.4838' W; running northeasterly to the east shore to a point 34° 46.8490' N - 76° 43.3296' W;
- (vii) Calico Creek - west of a line beginning on the north shore at a point 34° 43.7318' N - 76° 43.1268' W; running southerly to the south shore to a point 34° 43.6066' N - 76° 43.2040' W; and
- (viii) Crab Point Bay - northwest of a line beginning on the northeast shore at a point 34° 44.0615' N - 76° 42.9393' W; running southwesterly to the southwest shore to a point 34° 43.9328' N - 76° 43.0721' W;
- (12) Bogue Sound - Bogue Inlet Area:

- (a) Gales Creek - north of the Highway 24 Bridge;
  - (b) Broad Creek - north of the Highway 24 Bridge;
  - (c) Sanders Creek - north of a line beginning at a point 34° 42.4694' N - 76° 58.3754' W on the west shore; running easterly to a point 34° 42.4903' N - 76° 58.1434' W on the east shore;
  - (d) Goose Creek - north of a line beginning on the west shore at a point 34° 41.8183' N - 77° 00.7208' W; running easterly to the east shore to a point 34° 41.8600' N - 77° 00.5108' W;
  - (e) Archer Creek - west of a line beginning on the north shore at a point 34° 40.4721' N - 77° 00.7577' W; running southerly to the south shore to a point 34° 40.3521' N - 77° 00.8008' W;
  - (f) White Oak River - northwest of a line beginning on the northeast shore at a point 34° 45.6730' N - 77° 07.5960' W; running southwesterly to the southwest shore to a point 34° 45.2890' N - 77° 07.7500' W;
    - (i) Pettiford Creek - east of a line beginning on the north shore at a point 34° 42.8670' N - 77° 05.3990' W; running southerly to the south shore to a point 34° 42.6310' N - 77° 05.3180' W; and
    - (ii) Holland Mill Creek - west of a line beginning on the north shore at a point 34° 43.8390' N - 77° 08.0090' W; running southeasterly to the south shore to a point 34° 43.4800' N - 77° 07.7650' W;
  - (g) Hawkins Creek - west of a line beginning on the north shore at a point 34° 41.1210' N - 77° 07.5720' W; running southerly to the south shore to a point 34° 41.0460' N - 77° 07.5930' W;
  - (h) Queen's Creek - north of state road number 1509 bridge:
    - (i) Dick's Creek - west of a line beginning on the north shore at a point 34° 39.9790' N - 77° 09.3470' W; running southeasterly to the south shore to a point 34° 39.9350' N - 77° 09.3280' W;
    - (ii) Parrot Swamp - west of a line beginning on the north shore at a point 34° 40.6170' N - 77° 09.7820' W; running southeasterly to the south shore to a point 34° 40.3660' N - 77° 09.5980' W; and
    - (iii) Hall's Creek - east of a line beginning on the north shore at a point 34° 41.0740' N - 77° 09.8640' W; running easterly to the south shore to a point 34° 41.0300' N - 77° 09.6740' W; and
  - (i) Bear Creek - west of a line beginning at Willis Landing at a point 34° 38.7090' N - 77° 12.6860' W; running southeasterly to the south shore to a point 34° 38.4740' N - 77° 12.3810' W;
- (13) New River Area:

- 1 (a) Salliers Bay area - all waters north and northwest of the IWW beginning at a point on the
- 2 shoreline 34° 37.0788' N - 77° 12.5350' W; running easterly to a point near Beacon "58"
- 3 at a point 34° 37.9670' N - 77° 12.3060' W; running along the IWW near Cedar Point to a
- 4 point 34° 33.1860' N - 77° 20.4370' W; running northerly to a point on the shoreline 34°
- 5 33.1063' N - 77° 20.4679' W; following the shoreline to the point of origin; including
- 6 Howard Bay, Mile Hammock Bay, Salliers Bay, and Freeman Creek;
- 7 (b) New River Inlet area (including Hellgate Creek and Ward's Channel) - all waters south of
- 8 the IWW from a point on the shoreline 34° 33.0486' N - 77° 18.6295' W; running
- 9 northwesterly to a point near Beacon "65" 34° 33.0550' N - 77° 18.6380' W; running along
- 10 the IWW to a point near Beacon "15" 34° 31.0630' N - 77° 22.2630' W; running southerly
- 11 to a point on the shoreline 34° 30.9212' N - 77° 22.2257' W; following the shoreline across
- 12 New River Inlet at the COLREGS demarcation line back to the point of origin excluding
- 13 the marked New River Inlet Channel;
- 14 (c) New River:
- 15 (i) Trap's Bay - northeast of a line beginning on the west shore at a point 34° 34.0910'
- 16 N - 77° 21.0010' W; running southeasterly to the east shore to a point 34° 33.8260'
- 17 N - 77° 20.4060' W;
- 18 (ii) Courthouse Bay:
- 19 (A) Tributary of Courthouse Bay - southeast of a line beginning on Harvey's
- 20 Point at a point 34° 35.0050' N - 77° 22.3910' W; running northeasterly
- 21 to the east shore to a point 34° 35.0830' N - 77° 22.1890' W;
- 22 (B) Tributary of Courthouse Bay - northwest of a line beginning on the west
- 23 shore at a point 34° 35.0970' N - 77° 22.6010' W; running northeasterly
- 24 to the east shore to a point 34° 35.1630' N - 77° 22.5030' W; and
- 25 (C) Rufus Creek - east of a line beginning at a point on the north shore 34°
- 26 34.4630' N - 77° 21.6410' W; running southerly to a point near Wilken's
- 27 Bluff 34° 34.3140' N - 77° 21.6620' W;
- 28 (iii) Wheeler Creek - south of a line beginning on the west shore at a point 34° 34.0570'
- 29 N - 77° 23.3640' W; running easterly to a point near Poverty Point 34° 34.1060'
- 30 N - 77° 23.2440' W;
- 31 (iv) Fannie Creek - south of a line beginning on the west shore at a point 34° 34.1470'
- 32 N - 77° 23.6390' W; running easterly to the east shore to a point 34° 34.1300'
- 33 N - 77° 23.5600' W;
- 34 (v) Snead's Creek - northwest of a line beginning on the west shore at a point 34°
- 35 35.2850' N - 77° 23.5500' W; running northerly to the east shore to a point 34°
- 36 35.3440' N - 77° 23.4860' W;

- (vi) Everette Creek - south of a line beginning on the west shore at a point  $34^{\circ} 34.2570'$  N -  $77^{\circ} 24.8480'$  W; running easterly to the east shore to a point  $34^{\circ} 34.2380'$  N -  $77^{\circ} 24.6970'$  W;
- (vii) Stone's Creek - southwest of a line beginning on the northwest shore at a point  $34^{\circ} 36.6170'$  N -  $77^{\circ} 26.8670'$  W; running southeasterly to the southeast shore to a point  $34^{\circ} 36.5670'$  N -  $77^{\circ} 26.8500'$  W;
- (viii) Muddy Creek - north of a line beginning on the west shore  $34^{\circ} 36.8670'$  N -  $77^{\circ} 26.6340'$  W; running easterly to the east shore to a point  $34^{\circ} 36.8670'$  N -  $77^{\circ} 26.6170'$  W;
- (ix) Mill Creek - north of a line beginning on the west shore at a point  $34^{\circ} 37.2350'$  N -  $77^{\circ} 25.7000'$  W; running easterly to the east shore to a point  $34^{\circ} 37.2360'$  N -  $77^{\circ} 25.6890'$  W;
- (x) Whitehurst Creek - west of a line beginning on the north shore at a point  $34^{\circ} 38.0780'$  N -  $77^{\circ} 22.6110'$  W; running easterly to the south shore to a point  $34^{\circ} 38.0720'$  N -  $77^{\circ} 22.6000'$  W;
- (xi) Town Creek - west of a line beginning on the north shore at a point  $34^{\circ} 39.6060'$  N -  $77^{\circ} 23.0690'$  W; running southerly to the south shore to a point  $34^{\circ} 39.5950'$  N -  $77^{\circ} 23.0830'$  W;
- (xii) Lewis Creek - southwest of a line beginning on the northwest shore at a point  $34^{\circ} 40.9330'$  N -  $77^{\circ} 24.5290'$  W; running southeasterly to the southeast shore to a point  $34^{\circ} 40.9190'$  N -  $77^{\circ} 24.5040'$  W;
- (xiii) Northeast Creek - east of a line beginning at the mouth of Scale's Creek at a point  $34^{\circ} 43.7350'$  N -  $77^{\circ} 24.1190'$  W; running southeasterly to the south shore to a point  $34^{\circ} 43.3950'$  N -  $77^{\circ} 23.5450'$  W;
- (xiv) Southwest Creek - southwest of a line beginning on the north shore at a point  $34^{\circ} 41.8500'$  N -  $77^{\circ} 25.6460'$  W; running southeasterly to the south shore to a point  $34^{\circ} 41.5540'$  N -  $77^{\circ} 25.2250'$  W; and
- (xv) Upper New River - north of a line beginning on the west shore at a point  $34^{\circ} 42.9770'$  N -  $77^{\circ} 25.9070'$  W; running easterly through a point near Beacon "53" to a point  $34^{\circ} 43.2600'$  N -  $77^{\circ} 25.3800'$  W; to the east shore to a point  $34^{\circ} 43.4260'$  N -  $77^{\circ} 25.0700'$  W; and
- (d) Chadwick Bay - all waters bounded by a line beginning on Roses Point at a point  $34^{\circ} 32.2240'$  N -  $77^{\circ} 22.2880'$  W; running easterly to a point near Marker "6" at  $34^{\circ} 32.4180'$  N -  $77^{\circ} 21.6080'$  W; then following the IWW to a point near Marker "14" at  $34^{\circ} 31.3220'$  N -  $77^{\circ} 22.1520'$  W; following the shoreline of Chadwick Bay back to the point of origin;

- (i) Fullard Creek (including Charles Creek) - northwest of a line beginning on the north shore at a point 34° 32.2210' N - 77° 22.8080' W; running southeasterly to the south shore to a point 34° 32.0340' N - 77° 22.7160' W; and
- (ii) Bump's Creek - north of a line beginning on the west shore at a point 34° 32.3430' N - 77° 22.4570' W; running northeasterly to the east shore to a point 34° 32.4400' N - 77° 22.3830' W;
- (14) Stump Sound Area - Stump Sound - all waters north of the IWW from a point on the shoreline 34° 31.1228' N - 77° 22.3181' W; running southerly to a point across the IWW from Beacon "15" 34° 31.1040' N - 77° 22.2960' W; running along the IWW to a point near Marker "78" 34° 25.4050' N - 77° 34.2120' W; running northerly to a point on the shoreline 34° 24.5183' N - 77° 34.9833' W; running along the shoreline to the point of origin; except 100 feet north of the IWW from a point across from Beacon "49" 34° 28.1330' N - 77° 30.5170' W to a point near Marker "78" 34° 25.4050' N - 77° 34.2120' W. All waters south of IWW from a point on the shoreline 34° 31.0550' N - 77° 22.2574' W; running northerly to a point near Beacon "15" at 34° 31.0630' N - 77° 22.2630' W; running along the IWW to a point across the IWW from Marker "78" 34° 25.3110' N - 77° 34.1710' W; running southeasterly to a point on the shoreline 34° 23.9817' N - 77° 35.0367' W; running along the shoreline to the point of origin; except 100 feet on the south side of the IWW from a point near Beacon "49" 34° 28.0820' N - 77° 30.4600' W at Morris Landing to a point across the IWW from Marker "78" 34° 25.3110' N - 77° 34.1710' W and except the dredged canals at Old Settler's Beach and the dredged channel from the IWW north of Marker "57" to the Old Settler's Beach Canals;
- (15) Topsail Sound Area:
- (a) Virginia Creek - all waters northwest of a line beginning on the southwest shore near the mouth at a point 34° 24.8030' N - 77° 35.5960' W; running northeasterly to a point 34° 25.0333' N - 77° 35.3167' W; running easterly to intersect the nursery area line near Becky's Creek at a point 34° 25.4050' N - 77° 34.2120' W, with the exception of the natural channel as marked by the North Carolina Division of Marine Fisheries;
- (b) Old Topsail Creek - all waters northwest of a line beginning on the northeast shore at a point 34° 21.7740' N - 77° 40.3870' W; running southwesterly to the southwest shore to a point 34° 21.4930' N - 77° 40.6900' W, with the exception of the dredged channel as marked by the North Carolina Division of Marine Fisheries;
- (c) Topsail Sound - all waters enclosed within a line starting near Beacon "BC" at a point 34° 24.6110' N - 77° 35.7050' W; then bounded on the northeast and southeast by Bank's Channel, on the southwest by Marker "98" channel and on the northeast by the IWW; then back to the point of origin; and
- (d) Mallard Bay Area - all waters northwest of the IWW beginning at a point on the shoreline 34° 24.0278' N - 77° 36.8498' W; running southerly to a point 34° 24.0167' N - 77° 36.7333' W near Beacon "93"; running southwesterly to a point 34° 23.8167' N - 77° 36.9667' W;

- 1 running southwesterly along the marsh line to a point on the shoreline 34° 22.6168' N - 77°  
2 38.8580' W near Beacon "96"; running along the shoreline to the point of origin;
- 3 (16) Middle Sound Area:
- 4 (a) Howard Channel and Long Point Channel area - all waters southeast of the IWW beginning  
5 at a point on the shoreline 34° 20.4514' N - 77° 40.0183' W; running along the shorelines  
6 of Topsail Inlet Channel and Marker # 98 Channel to a point near Beacon "98" 34° 21.5670'  
7 N - 77° 40.4580' W; running along the IWW to a point on the north side of the Figure 8  
8 Island Marina Channel to a point 34° 16.5120' N - 77° 45.4870' W; following the shoreline  
9 of Figure 8 Island Marina Channel to a point 34° 16.2628' N - 77° 44.7855' W; following  
10 the shoreline across Rich Inlet at the COLREGS demarcation line to the point of origin.  
11 [with the exception of Howard Channel from the IWW to New Topsail Inlet, Green  
12 Channel from Marker "105" to Rich's Inlet, Butler's Creek (Utley's Channel) from the IWW  
13 to Nixon's Channel, and Nixon's Channel from IWW to Rich's Inlet;]
- 14 (b) Futch Creek - northwest of a line beginning on the north shore at Baldeagle Point at a point  
15 34° 17.9900' N - 77° 44.4930' W; running southerly to Porter's Neck to a point 34° 18.1170'  
16 N - 77° 44.3760' W;
- 17 (c) Page's Creek - northwest of a line beginning on the north shore at a point 34° 16.7420'  
18 N - 77° 46.6940' W; running southwesterly to the south shore to a point 34° 16.6910'  
19 N - 77° 46.8510' W; and
- 20 (d) All waters bounded on the north by the Figure Eight Island Causeway, on the east by  
21 Mason's Channel, on the south by Mason's Inlet Channel and on the west by the Intracoastal  
22 Waterway, with the exception of Mason's Channel;
- 23 (17) Greenville Sound Area:
- 24 (a) Shell Island area - all waters bounded on the north by Mason's Inlet Channel, on the west  
25 by the IWW, on the south by Old Moores Inlet Channel and on the east by Wrightsville  
26 Beach;
- 27 (b) Howe Creek (Moore's Creek) - northwest of a line beginning on the north shore at a point  
28 34° 14.9060' N - 77° 47.2180' W; running southwesterly to the south shore to a point 34°  
29 14.8470' N - 77° 47.3810' W;
- 30 (c) Bradley Creek - all waters west of a line beginning on the north side of the Highway 17,  
31 74 and 76 Bridge at a point 34° 12.9700' N - 77° 50.0260' W; running southerly to the south  
32 side of the bridge at a point 34° 12.8620' N - 77° 50.0550' W; and
- 33 (d) Wrightsville Beach area - all waters in an area enclosed by a line beginning across the  
34 IWW from the mouth of Bradley Creek at a point 34° 12.3530' N - 77° 49.1250' W; running  
35 easterly to a point (near the Borrow Pit) 34° 12.3820' N - 77° 48.6610' W; then bounded  
36 by Bank's Channel on the east, Shinn Creek on the south and the IWW on the west, back  
37 to point of origin;

- 1 (18) Masonboro Sound Area:
- 2 (a) Masonboro - Myrtle Grove Sound area (west side) - all waters west and northwest of the
- 3 IWW beginning at a point on the shoreline 34° 12.7423' N - 77° 49.8391' W; running
- 4 southeasterly to a point at the mouth of Bradley Creek at a point 34° 12.4130' N - 77°
- 5 49.2110' W; running along the west side of the IWW to a point opposite Beacon "161" at
- 6 34° 03.5590' N - 77° 53.4550' W; running westerly to a point on the shoreline 34° 03.5715'
- 7 N - 77° 53.4979' W; running along the shoreline back to the point of origin; and
- 8 (b) Masonboro - Myrtle Grove Sound area (east side) - all waters south and southeast of a line
- 9 beginning on the north end of Masonboro Island at a point 34° 10.9130' N - 77° 48.9550'
- 10 W; running northwesterly to a point near the intersection of Shinn Creek and the IWW 34°
- 11 11.3840' N - 77° 49.5240' W; running along the east side of the IWW to a point near Marker
- 12 "161" 34° 03.5270' N - 77° 53.3550' W; running southerly to a point on the shoreline 34°
- 13 03.3917' N - 77° 53.0423' W; running along the shoreline across Carolina Beach Inlet at
- 14 the COLREGS demarcation line back to the point of origin (with the exception of Old
- 15 Masonboro Channel and Carolina Beach Inlet Channel);
- 16 (19) Cape Fear River Area:
- 17 (a) Cape Fear River - all waters north of a line beginning on the west shore at a point 34°
- 18 10.4410' N - 77° 57.7400' W; running easterly through Beacon "59" to the east shore to a
- 19 point 34° 10.4050' N - 77° 57.1310' W; with the exception of the maintained channel, and
- 20 all waters north of a line beginning on the west shore at a point 34° 04.6040' N - 77°
- 21 56.4780' W; running easterly through Beacon "41" to the east shore to a point 34° 04.7920'
- 22 N - 77° 55.4740' W; with the exception of 300 yards east and west of the main shipping
- 23 channel up to Beacon "59" (mouth of Brunswick River);
- 24 (b) The Basin (Ft. Fisher area) - east of a line beginning on the north shore at a point 33°
- 25 57.2950' N - 77° 56.1450' W; running southeasterly to the south shore to a point 33°
- 26 57.1120' N - 77° 56.2060' W;
- 27 (c) Walden Creek - all waters northwest of a line beginning on the north side of county road
- 28 No. 1528 bridge at a point 33° 58.2950' N - 77° 59.0280' W; running southerly to the south
- 29 side of the bridge at a point 33° 58.2250' N - 77° 59.0440' W;
- 30 (d) Baldhead Island Creeks:
- 31 (i) Baldhead Creek - southeast of a line beginning on the north shore at a point 33°
- 32 51.7680' N - 77° 59.1700' W; running westerly to the south shore to a point 33°
- 33 51.7590' N - 77° 59.1850' W;
- 34 (ii) Cape Creek - southeast of a line beginning on the north shore at a point 33°
- 35 51.9740' N - 77° 58.3090' W; running southwesterly to the south shore to a point
- 36 33° 51.9480' N - 77° 58.3480' W;

- (iii) Bluff Island Creek (East Beach Creek) - south of a line beginning on the west shore at a point 33° 52.6740' N - 77° 58.1530' W; running easterly to the east shore to a point 33° 52.6850' N - 77° 58.0780' W; and
- (iv) Deep Creek - south of a line on the west shore at a point 33° 52.6850' N - 77° 58.0780' W; running northeasterly to the east shore to a point 33° 52.7690' N - 77° 58.0110' W;
- (e) Dutchman Creek - north of a line beginning on the west shore at a point 33° 55.1560' N - 78° 02.7260' W; running southeasterly to the east shore to a point 33° 55.1130' N - 78° 02.5990' W;
- (f) Denis Creek - west of a line beginning on the north shore at a point 33° 55.0410' N - 78° 03.5180' W; running southerly to the south shore to a point 33° 55.0120' N - 78° 03.5110' W;
- (g) Piney Point Creek - west of a line beginning on the north shore at a point 33° 54.6310' N - 78° 03.5020' W; running southerly to the south shore to a point 33° 54.6040' N - 78° 03.5010' W;
- (h) Molasses, Coward and Smokehouse creeks - all waters bounded by the IWW and the Elizabeth River on the north and east, the Oak Island Coast Guard canal on the east, Oak Island on the south and the CP and L Discharge canal on the west; and
- (i) Oak Island area - all waters north of the IWW from a point on the shoreline 33° 55.2827' N - 78° 03.7681' W; running southerly to a point across the IWW from Marker # 9 33° 55.2610' N - 78° 03.7630' W; running along the IWW to a point near Beacon "18" 33° 55.7410' N - 78° 10.2760' W; running northerly to a point on the shoreline 33° 55.7718' N - 78° 10.2744' W; running along the shoreline back to the point of origin; all waters south of the IWW from a point near Marker "9" 33° 55.2060' N - 78° 03.7580' W; running along the IWW to a point across the IWW from Beacon "18" 33° 55.7199' N - 78° 10.2764' W; running southerly to a point on the shoreline 33° 55.6898' N - 78° 10.2775' W; running along the shoreline back to the point of origin;
- (20) Lockwoods Folly Inlet Area:
- (a) Davis Creek and Davis Canal - east of a line beginning on the north shore at a point 33° 55.2280' N - 78° 10.8610' W; running southerly to the south shore to a point 33° 55.1970' N - 78° 10.8390' W;
- (b) Lockwoods Folly River - north of a line beginning on the west shore at a point 33° 56.3880' N - 78° 13.2360' W; running easterly to the east shore to a point 33° 56.6560' N - 78° 12.8350' W; and
- (c) Spring Creek (Galloway Flats area) - all waters northwest of a line beginning on the north shore at a point 33° 55.7350' N - 78° 13.7090' W; running southwesterly to the south shore to a point 33° 55.5590' N - 78° 13.7960' W;



- (21) Shallotte Inlet Area:
- (a) Shallotte River - north of a line beginning on Bill Holden's Landing at a point 33° 55.8840' N - 78° 22.0710' W; running northeasterly to Gibbins Point to a point 33° 56.3190' N - 78° 21.8740' W;
  - (b) Shallotte River (Ocean Flats) - excluding Gibbs Creek, the area enclosed by a line beginning at Long Point 33° 54.6210' N - 78° 21.7960' W; then bounded on the south by the IWW, the west by Shallotte River, the north by Gibb's Creek and the east by the shoreline of the Shallotte River back to the point of origin;
  - (c) Shallotte Creek (Little Shallotte River) - east of a line beginning on Shell Landing at a point 33° 55.7390' N - 78° 21.6410' W; running southerly to Boone's Neck Point to a point 33° 55.5990' N - 78° 21.5480' W;
  - (d) Saucepan Creek - northwest of a line beginning on the west shore at a point 33° 54.7007' N - 78° 23.4183' W; running northerly to the east shore (mouth of Old Mill Creek) to a point 33° 54.9140' N - 78° 23.4370' W; and
  - (e) Old Channel area - all waters south of the IWW from a point near Beacon "83" 33° 54.2890' N - 78° 23.1930' W; running along the IWW to a point near Ocean Isle Beach Bridge 33° 53.7270' N - 78° 26.3760' W; running southerly to a point on the shoreline 33° 53.7082' N - 78° 26.3732' W; running southerly along the shoreline to a point on the shoreline 33° 53.3827' N - 78° 26.2118' W; running along the shoreline to the point of origin; except the dredged finger canals at Ocean Isle Beach located on the south side of the IWW between the Ocean Isle Beach Bridge and IWW Marker "89"; and
- (22) Little River Inlet Area:
- (a) Gause Landing area - all waters north of the IWW from a point on the shoreline 33° 53.9053' N - 78° 25.6064' W; running southerly to a point near Beacon "90" 33° 53.8790' N - 78° 25.5950' W; then following the IWW to a point at the intersection of the IWW and the South Carolina line; 33° 52.0003' N - 78° 33.5633' W; running northerly along the South Carolina line to a point on the shoreline 33° 52.0290' N - 78° 33.5893' W; running along the shoreline to the point of origin;
  - (b) Eastern Channel Area - all waters bounded on the east and south by Eastern Channel, on the west by Jink's Creek and on the north by the IWW;
  - (c) The Big Narrows Area:
    - (i) Big Teague Creek - west of a line beginning on the north shore at a point 33° 52.8260' N - 78° 30.0110' W; running southerly to the south shore to a point 33° 52.8040' N - 78° 29.9940' W;
    - (ii) Little Teague Creek - west of a line beginning on the north shore at a point 33° 52.9280' N - 78° 30.1500' W; running southeasterly to the south shore to a point 33° 52.9130' N - 78° 30.1220' W; and

- (iii) Big Norge Creek - south of a line beginning on the west shore at a point 33° 52.8550' N - 78° 30.6190' W; running easterly to the east shore to a point 33° 52.8620' N - 78° 30.5900' W;
- (d) Mad Inlet area - all waters south of the IWW from a point on the shoreline 33° 52.3121' N - 78° 30.4990' W; running northerly to a point near the Sunset Beach Bridge 33° 52.8450' N - 78° 30.6510' W; then following the IWW to a point at the intersection of the IWW and the South Carolina line 33° 51.9888' N - 78° 33.5458' W; running southeasterly along the South Carolina line to a point on the shoreline; running along the shoreline across Mad Inlet at the COLREGS demarcation line to the point of origin; with the exception of Bonaparte Creek; and
- (e) Calabash River - all waters east of a line beginning at a point on the north side of state road No. 1164 bridge at a point 33° 53.3850' N - 78° 32.9710' W; running southerly to the south side of the bridge at a point 33° 53.3580' N - 78° 32.9750' W.

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