

REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03I .0101

DEADLINE FOR RECEIPT: **Friday, January 10, 2014**

NOTE WELL: *This request when viewed on computer 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:

Delete the page number for Page 1.

Line 13 defines "Internal Coastal Waters" as "all coastal fishing waters except the Atlantic Ocean." Please explain the use of "coastal" as it seems opposite from "internal."

Page 2, lines 16 through 19, please change the commas to semicolons.

Page 2, lines 22 through 24 appears to be list. Add a comma after "shore" on line 22, and comma between "gear and" on line 23.

Page 2, lines 29 through 32, please change the commas to semicolons.

Page 3, line 3, is the term "rim" correct? This is the only location of the term in the rule and other places, it is a "white-line." It seems odd that something could be a line or a rim.

Page 3, line 7, add an "or" after "scallops" and delete the comma after mussels on line 8

Page 3, line 14, delete the comma after "mussels"

Page 4, line 15, add a comma after "gas"

Page 4, line 21, add a comma after "tooth bar"

Page 4, line 31, can the second "by" be replaced with "of." The sentence "by entanglement by" is confusing

Page 4, line 32, add a comma after "webbing diameter"

Page 5, line 6, add a comma after "wire"

Page 5, line 7, delete the comma after "water" and add an "and" between "water held"

Abigail M. Hammond
Commission Counsel

Page 5, line 15, add a comma after “power”

Page 5, lines 20 through 21, the order of the terms change from the first sentence of this definition. Track the prior language and re-write as follows:

The holding pens, enclosures, and lead(s) are not conical...”

Page 6, line 23, please change the semicolon after “(Sabellidea)” to a comma

Page 6, lines 27 through 28, delete the “Those”, delete “in which” and replace with “that” and add a comma after “temperature”

Page 6, lines 36 through 37, delete the “Those” and delete “in which” and replace with “that”. Delete “whether historically or currently.” If this language is necessary, add an additional sentence to the definition.

Page 7, line 14, add a comma before the “and”

Page 7, lines 31 through 32, delete “Rules 15A NCAC 03K .0304, .0404, and 03I .0101,” and replace with “this Rule or Rule 03K .0304 and .0404 of this Chapter,”

Page 8, line 2, place an “and” between “time, is”

Page 8, line 5, add a comma after “G.S. 113-174” Please note that the definition set forth in G.S. 113-174 pertains to “For Hire Boats” and the term defined in this Rule is not boats, but vessel. Consider deleting citation to G.S. 113-174, or replacing “vessel” with “boat” in this definition, making any additional subsequent changes. There appears to be an inconsistent use of the terms “vessel” and “boat” throughout Subchapter I of this Chapter.

Page 8, line 27, delete the comma after “statistics”, delete “which” and replace with “that”, and add a comma after “method”

Page 8, line 33, add a comma after “supervises”

Page 8, line 35, add a comma after “operations”

Page 9, line 1, add a comma after “supervises”

Page 9, line 5, add a comma after “distributed”

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0104

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In reviewing these rules, the staff determined that the following technical changes need to be made:

Delete the page number for Page 1.

Page 1, line 5, add a comma after "28"

Page 2, lines 9 and 10, replace the beginning of the clauses with lowercase letters

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Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0301

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In reviewing these rules, the staff determined that the following technical changes need to be made:

Delete the page number for Page 1.

Page 1, line 5, the term "Coastal Fishing Water" is capitalized as if it represents a defined term. I do not see where this term is defined in 15A NCAC 03I .0101. The word should begin with lowercased letters.

Page 2, lines 7 through 9, lines 13 through 15, lines 22 through 25, and lines 30 through 34, replace the beginning of the clauses with lowercase letters.

Page 2, line 28, the rule directs the user to write the Director. How does the user know the address? Is there a rule that could be referenced or can a specific address be added?

Page 3, line 7, delete the phrase "as of" and replace with "pending"

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Abigail M. Hammond
Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03K .0110

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In reviewing these rules, the staff determined that the following technical changes need to be made:

Line 6, add a comma after "scallops"

Line 6 references "from approved sources." What are these "approved sources" and where are they located? Can the "approved" sources refer to another rule or be incorporated?

Line 7, add "to" before "ensure" and "that" after "ensure" so that the clause reads "to ensure that shellfish"

Lines 10 through 25, replace the beginning of the clauses with lowercase letters.

Line 22 references "establish training requirements." What are the "training requirements" and where are they located? G.S. 113-201(c) requires that "The Marine Fisheries Commission shall adopt rules to establish training requirements" and this statement restates the statute. Either reference the rules or delete the re-statement of the statute.

Line 28, delete the phrase "as of" and replace with "pending."

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

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Abigail M. Hammond
Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03L .0201

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In reviewing these rules, the staff determined that the following technical changes need to be made:

Delete the page number for Page 1.

Page 1, lines 21 through 24; page 2, lines 4 through 7; and page 2, lines 16 through 21, replace the beginning of the clauses with lowercase letters.

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03L .0203

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In reviewing these rules, the staff determined that the following technical changes need to be made:

Lines 5 and 7, replace the beginning of the clauses with lowercase letters.

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

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Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03L .0204

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In reviewing these rules, the staff determined that the following technical changes need to be made:

Lines 9 through 11, replace the beginning of the clauses with lowercase letters.

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

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03L .0205

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In reviewing these rules, the staff determined that the following technical changes need to be made:

Lines 15 through 18, replace the beginning of the clauses with lowercase letters.

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

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Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03M .0521

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In reviewing these rules, the staff determined that the following technical changes need to be made:

Lines 6 through 11, replace the beginning of the clauses with lowercase letters.

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

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Abigail M. Hammond
Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0503

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In reviewing these rules, the staff determined that the following technical changes need to be made:

Delete the page number for Page 1.

Page 1, line 8; page 3, line 30; and page 4, line 15, reference forms provided by the Division. Does the public need to take any action to request the forms or are they provided by the Division without any action taken by the public?

Line 17 references the Morehead City office. What is the address for this location? I see a physical address for Arendell Street in Rule 03 .0107 of this Chapter. Is that the correct address? Consider adding the postal or physical address.

Line 20, add a "the" between "for fish"

Line 32, delete the second "contact"

Line 33, add "and" at the end of the line

Page 2, lines 1, 9, and 20, add a comma after "sell"

Page 2, line 7, change "The" to a lowercase "the." Please note that in this Rule and in Rule 03R .0201 of this Chapter, the terms "joint" and "coastal" are lowercased words. The same words are capitalized throughout the entirety of 15A .NCAC 03Q .0202.

Page 3, line 18, the sentence is awkward with "sets are set" and should be re-worded. Consider the following:

"Rule 03J .0505 of this Chapter sets forth the specific conditions for pound net sets permits."

Page 3, lines 36 through 37, delete "who will be"

Page 4, line 7 references “collection methods and possession restrictions approved by the Division.” Is this information set forth in a rule that should be referenced here?

Page 4, line 24, delete “who will be”

Page 4, lines 27 through 29, what is the purpose of requiring this contact prior to action by the permittee or designees?

Page 5, lines 23 through 29; page 6, lines 1 through 5; and page 6, lines 11 through 14, replace the beginning of the clauses with lowercase letters.

Page 6, line 2, add a comma after “state”

Page 6, line 13, add an “and” after the semicolon

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

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03Q .0202

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In reviewing these rules, the staff determined that the following technical changes need to be made:

Delete the page number for Page 1.

Add the numbered lines on the left margin for each page.

Please note that in Rules 03O .0503; 03R .0201; and 03Q .0201 of this Chapter, the terms "joint," "inland," and "coastal" are lowercased words. The same words are capitalized throughout the entirety of this Rule. Is there any clear guidance for the Marine Fisheries Commission as to whether these terms are proper for capitalization or not?

Page 4, South Creek, "Coastal Waters" is misspelled. The word presently written is "Coast Waters"

Page 5, Davis Creek, add an "and" between "Inland Waters south" and "Coastal Waters north"

Page 10, Brunswick River, create Sub-Items for the clauses that begin as follow: (I) For the southernmost and (II) For the northernmost

Page 12, Great Creek, create Sub-Items for the clauses that begin as follow: (1) Mouth and (II) North Shore

Page 15, Courts Creek, add an "and" between "Inland Waters east" and "Joint Waters west"

Page 17, Greens Thoroughfare, create Sub-items for the clauses that begin as follow: (A) Easternmost and (B) Westernmost

Page 17, Stumpy Creek, create Sub-items for the clauses that begin as follow: (A) Southern and (B) Northern

Page 19, Goose Pond, delete the “Also”. If tracking the prior language, the “Also” should be replaced with “Inland Waters north and “Joint Waters”

Page 19, Intracoastal Waterway. First, should this be termed the “Atlantic Intracoastal Waterway” like on page 26? Second, delete the IWW and replace with the proper term.

Page 19, Nelson (Nells) Creek, create Sub-items for the clauses that begin as follow: (A) Northern and (B) Southern

Page 20, Hogs Quarter Creek, create Sub-items for the clauses that begin as follow: (A) Northernmost and (B) Southernmost

Page 23, Martin Point Creek, add an “and” between “Inland Waters south” and “Joint Waters north”

Page 23, Shingle (Island) Creek, delete the phrase “of the westernmost entrance into Chowan River” and create an introduction clause similar to the other Sub-items that states the following:

“(A) At the westernmost entrance into Chowan River: Inland Waters...”

Page 23, Shingle (Island) Creek, create the other Sub-item (B) At the easternmost

Page 30, Greenfield Lake Outlet, delete the second “Greenfields Lake Outlet”

Page 30, Tommer Creek, create Sub-items for the clauses that begin as follow: (A) Southernmost and (B) Northernmost

Page 34, Intracoastal Waterway, should this be termed the “Atlantic Intracoastal Waterway” like on page 26? Please keep consistent with page 19.

Page 38, Thorofare, create Sub-items for the clauses that begin as follow: (A) For the easternmost and (B) For the westernmost. Is the phrase “Thorofare” missing a descriptive word, such as creek or river? The same term is also on page 7.

Page 41, Muddy Creek, are the directions correct, both are west bound? Inland is northwest and Joint is southwest.

The remaining issue is set out separately, so that it is not confused with other Technical Changes:

Please note that some clauses reoccurring throughout this rule are not consistent.

Specifically, please note the following language regarding Albemarle Sound:

Page 5, Bertie County says:

All waters in this waterbody are designated as Coastal.

Page 11, Camden County says:

All waters within this waterbody are designated Coastal.

Page 14, Chowan County says:

All waters within this waterbody in Chowan County are designated as Coastal.

Page 18, Currituck County says:

All waters within Albemarle Sound in Currituck County are designated as Coastal.

Specifically, please note the following language regarding manmade tributaries for Albemarle Sound:

Page 5, Bertie County says:

All manmade tributaries within this waterbody for Bertie County are designated as Joint.

Page 11, Camden County says:

All manmade tributaries within this waterbody are designated as Joint.

Page 14, Chowan County says:

All manmade tributaries are designated as Joint.

Page 18, Currituck County says:

All manmade tributaries to Albemarle Sound in Curriturk County are designated as Joint.

All of the clause provided above appear to address the same concept, but are worded differently in each use. Please review this Rule to resolve the inconsistencies. Albemarle Sound is also mentioned on pages 21, 37, 40, 41, and 42.

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

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Abigail M. Hammond
Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03R .0107

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In reviewing these rules, the staff determined that the following technical changes need to be made:

Delete the page number for Page 1.

Page 1, line 24; page 6, lines 8 and 27; and page 8, line 14 is there an extra word in the phrase "except pots shall not set"? On page, line 3, the phrase is "except pots may" and on page 6, line 7, the phrase is "pots shall not." This phrase is confusing. Consider re-writing as follows:

24.0466' W; pots may be used in coastal fishing waters within an area bound by the shoreline to the depth of six feet. Pots shall not be used in areas listed in Paragraph (b) of this Rule, unless opened to the use of pots by proclamation; and pots shall not be set within the following areas described by lines:"

Page 5, line 29, replace "Part" with "Paragraph" and replace "(J) through (N)" with the revised paragraph letters to reflect the re-lettered paragraphs.

Page 8, line 10 appears to have an additional space before "NR" Please delete

Page 9, line 36, add a comma after "Back Sound"

Page 11, lines 5 and 13, write out the term for "IWW"

Page 15, line 1, what is the location of the beginning? There appears to be clause missing after "eastern shore at"

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

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Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03R .0116

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AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03R .0118

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In reviewing these rules, the staff determined that the following technical changes need to be made:

Delete the page number for Page 1.

Line 23, is "COLREGS" a term known by the regulated public? If not, please define or delete.

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

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