

## Burgos, Alexander N

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**Subject:** FW: 15A NCAC 03O .0114 and .0209 Objection Letter

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**From:** Liebman, Brian R <brian.liebman@oah.nc.gov>  
**Sent:** Wednesday, June 8, 2022 10:59 AM  
**To:** Everett, Jennifer <jennifer.everett@ncdenr.gov>  
**Cc:** Blum, Catherine <catherine.blum@ncdenr.gov>; Maier, Michael S <smaier@ncdoj.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: 15A NCAC 03O .0114 and .0209 Objection Letter

Good morning everyone,

Thanks for sending these over. I've reviewed and it appears to me you have satisfied RRC's objections in both 03O .114 and 03O .0209. I will recommend that RRC approve these revised rules at the June 16 meeting.

With your consent, I'll send these versions to Dana for filing.

Also, please let me know who will be attending on behalf of the agency, and whether they will be in person or remote. We'll send y'all out invites if you're not planning to attend in person.

Thanks,  
Brian

Brian Liebman  
Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984)236-1948  
[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)

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**From:** Everett, Jennifer <[jennifer.everett@ncdenr.gov](mailto:jennifer.everett@ncdenr.gov)>  
**Sent:** Wednesday, June 1, 2022 1:55 PM  
**To:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Cc:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>; Maier, Michael S <[smaier@ncdoj.gov](mailto:smaier@ncdoj.gov)>; Rules, Oah <[oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov)>  
**Subject:** FW: 15A NCAC 03O .0114 and .0209 Objection Letter

Brian,

On May 26, 2022, the Marine Fisheries Commission voted to revise 15A NCAC 03O .0114 and .0209 to address the May 20, 2022, Rules Review Commission objection letter. The rewritten rules are attached for your review ahead of the June 16, 2022, Rules Review Commission meeting.

Let us know if you any questions.

Jennifer Everett  
DEQ Rulemaking Coordinator  
N.C. Depart. Of Environmental Quality  
Office of General Counsel  
1601 Mail Service Center  
Raleigh, NC 27699-1601  
Tele: (919)-707-8614  
<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

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1 15A NCAC 03O .0114 is readopted with changes as published in 36:07 NCR 488-489 as follows:

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

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

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

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

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

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

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

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

27 (d) After the Fisheries Director determines that a conviction requires a suspension or revocation of the licenses of a  
28 licensee, the Fisheries Director shall cause the licensee to be served with written notice of suspension or revocation.  
29 If the licensee is not an individual, the written notice shall be served upon any responsible individual affiliated with  
30 the corporation, partnership, or association. The notice of suspension or revocation shall be served by an inspector or  
31 other agent of the Department or by certified mail, shall state the ground upon which it is based, and shall take effect  
32 immediately upon service. The agent of the Fisheries Director making service shall collect all license certificates and  
33 plates and other forms or records relating to the license as directed by the Fisheries Director. Upon service of a notice  
34 of suspension or revocation of a license, it shall be unlawful to fail to surrender any license so suspended or revoked.

35 (e) If a license has been suspended, the former licensee shall not be eligible to apply for reissuance of license or for  
36 any additional license authorized in Article 14A, Article 14B, or Article 25A of Chapter 113 during the suspension

1 period. Licenses shall be returned to the licensee by the Fisheries Director or the Director's agents at the end of a  
2 period of suspension.

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

12 ~~(g) A licensee shall not willfully [It shall be unlawful to ]evade the service prescribed in this Rule.~~

13  
14 *History Note: Authority G.S. 113-134; 113-168.1; 113-171; 113-182; 143B-289.52; S.L. ~~2010-145; 2010-145, s.~~*

15 *L:*

16 *Eff. October 1, 2012;*

17 *Amended Eff. May 1, 2017;*

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

1 15A NCAC 03O .0209 is readopted with changes as published in 36:07 NCR 491-492 as follows:

2  
3 **15A NCAC 03O .0209 ~~TRANSFER OF INTEREST~~ ASSIGNMENT OF SHELLFISH LEASES AND**  
4 **FRANCHISES**

5 (a) For the purpose of effecting assignments of shellfish leases or franchises in accordance with this Rule:

6 (1) "transfer" shall be defined as any permanent assignment of a shellfish lease or franchise, in whole  
7 or in part.

8 (2) "sublease" shall be defined as any temporary assignment of a shellfish lease or franchise, in whole  
9 or in part.

10 ~~(a) Within 30 days after transfer of ownership of all or any portion of interest in a shellfish lease or franchise, the new~~  
11 ~~owner shall notify the Division, and provide the number of the lease or franchise and the county in which it is located.~~  
12 ~~Such notification shall be accompanied by a management plan prepared by the new owner in accordance with 15A~~  
13 ~~NCAC 03O .0202(b).~~

14 (b) No transfer or sublease of a shellfish lease or franchise, in whole or in part, shall be valid until notice is provided  
15 to the Division of Marine Fisheries as provided in Article 16 of Chapter 113 of the North Carolina General Statutes  
16 and the Division provides written consent in order to ensure that a transferee or sub-lessee meets the requirements of  
17 the North Carolina General Statutes and Marine Fisheries Commission Rules. A transfer may only be made by the use  
18 of a form provided and approved by the Division. Statutes.

19 (c) Notice to transfer or sublease a shellfish lease or franchise shall include the shellfish lease or franchise number,  
20 county in which the lease or franchise is located, and the name of the transferee or sub-lessee. include:

21 (1) shellfish lease or franchise number;

22 (2) date of transfer or sublease;

23 (3) name and city of shellfish lease or franchise holder;

24 (4) name and address of transferee or sub-lessee;

25 (5) waterbody and county of shellfish lease or franchise being transferred or subleased;

26 (6) area description and total acres of shellfish lease or franchise or portion of shellfish lease or franchise  
27 being transferred or subleased; and

28 (7) end date for a sublease.

29 The transferee or sub-lessee of a shellfish lease shall provide to the Division the required Shellfish Lease Management  
30 Plan and proof of completion of training requirements in accordance with Rule .0202 of this Section.

31 ~~(b)(d) If the new owner obtains a [The smallest ]portion of an existing shellfish bottom lease or franchise, it shall~~  
32 ~~not contain less than [franchise to be transferred or subleased shall be ]one half acre acre, and the required notification~~  
33 ~~to the Division shall be accompanied by a survey prepared in accordance with the standards in 15A NCAC 03O~~  
34 ~~.0203(d).~~

35 ~~(e) Within six months after transfer of ownership, the new owner shall complete shellfish cultivation lease training~~  
36 ~~as specified in 15A NCAC 03O .0202(d).~~

1 ~~(e)~~(d) A shellfish lease or franchise shall not be transferred or subleased to a nonresident of North Carolina in  
2 accordance with G.S. 113-202, G.S. 113-202.1, G.S. 113-202.2, and G.S. 113-206.

3 ~~(d)~~(f)(c) ~~Water column leases are not transferrable except when the Secretary approves such transfer.~~ A shellfish  
4 water column lease shall only be transferred in accordance with G.S. 113-202.1(f) and G.S. 113-202.2(f).

5 ~~(e) In the event the transferee involved in a lease is a nonresident, the Secretary must initiate termination proceedings.~~

6  
7 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-205; 113-206;*  
8 *143B-289.52;*  
9 *Eff. January 1, 1991;*  
10 *Amended Eff. April 1, 2011; March 1, 1994; September 1, 1991;*  
11 *Readopted Eff. May 1, 2022.*

## Burgos, Alexander N

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**From:** Liebman, Brian R  
**Sent:** Friday, June 3, 2022 3:44 PM  
**To:** Everett, Jennifer; Burgos, Alexander N  
**Cc:** Blum, Catherine  
**Subject:** RE: June 16 RRC meeting agenda correction needed

Good catch, y'all! Thank you!

Brian Liebman  
Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984)236-1948  
brian.liebman@oah.nc.gov

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**From:** Everett, Jennifer <jennifer.everett@ncdenr.gov>  
**Sent:** Friday, June 3, 2022 3:42 PM  
**To:** Liebman, Brian R <brian.liebman@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Cc:** Blum, Catherine <catherine.blum@ncdenr.gov>  
**Subject:** FW: June 16 RRC meeting agenda correction needed

Hi,

Please see below a request to correct a subchapter reference on the online June agenda.

Thanks for bringing this to our attention, Catherine.

Jennifer

Jennifer Everett  
DEQ Rulemaking Coordinator  
N.C. Depart. Of Environmental Quality  
Office of General Counsel  
1601 Mail Service Center  
Raleigh, NC 27699-1601  
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<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

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**From:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Sent:** Friday, June 3, 2022 3:35 PM

To: Everett, Jennifer <[jennifer.everett@ncdenr.gov](mailto:jennifer.everett@ncdenr.gov)>  
Subject: June 16 RRC meeting agenda correction needed

Hi Jennifer,

In preparation for the June 16 RRC meeting, I reviewed the agenda posted online. Under "Follow-up matters" for the Marine Fisheries Commission, there is a typo that needs to be corrected. Here is a snip from the agenda:

D. Marine Fisheries Commission -15A NCAC 03I .0114. .0209 (Liebman)

1. [Communication with agency](#)
2. [Letter of Objection from May meeting](#)
3. [Revised Rules submitted from the May meeting](#)
4. [Staff Opinion 15A NCAC 03O .0114. .0209](#)
5. [Request for Changes Pursuant to G.S. 150B-21.10](#)
6. [Original Submission of Rules for RRC review](#)

In the first line, "03I" needs to read "03O". The two rules in question are both in 15A NCAC 03O.

Thank you,  
Catherine

**Catherine Blum**  
Rulemaking Coordinator  
Division of Marine Fisheries  
N.C. Department of Environmental Quality  
[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)  
252-726-7021

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## **Burgos, Alexander N**

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**Subject:** FW: 15A NCAC 03O .0114 and .0209 Objection Letter  
**Attachments:** 05.2022 - MFC 03O Objection Letter.pdf

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**From:** Liebman, Brian R  
**Sent:** Friday, May 20, 2022 11:29 AM  
**To:** Everett, Jennifer <[jennifer.everett@ncdenr.gov](mailto:jennifer.everett@ncdenr.gov)>  
**Subject:** 15A NCAC 03O .0114 and .0209 Objection Letter

Good morning Jennifer,

Attached, please find a letter regarding the RRC's objection to the above captioned rules considered at yesterday's meeting.

Please do not hesitate to contact me with any questions or concerns.

Thanks,

Brian Liebman  
Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984)236-1948  
[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)

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## Burgos, Alexander N

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**From:** Everett, Jennifer  
**Sent:** Tuesday, May 17, 2022 5:47 PM  
**To:** Liebman, Brian R; Rules, Oah  
**Cc:** Blum, Catherine; Burgos, Alexander N  
**Subject:** RE: Request for Extension - April 2022 RRC Meeting

Hi Brian,

Noticed that I forgot to cc Alex. The rewritten marine fisheries rules addressing your technical change requests are currently not posted to the online agenda. Resending these again to make sure the public and the Commission are able to review the rules.

Thanks.

Jennifer Everett  
DEQ Rulemaking Coordinator  
N.C. Depart. Of Environmental Quality  
Office of General Counsel  
1601 Mail Service Center  
Raleigh, NC 27699-1601  
Tele: (919)-707-8614  
<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

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**From:** Everett, Jennifer  
**Sent:** Thursday, May 12, 2022 4:10 PM  
**To:** Liebman, Brian R <brian.liebman@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>  
**Cc:** Blum, Catherine <catherine.blum@ncdenr.gov>  
**Subject:** Request for Extension - April 2022 RRC Meeting

Brian,

Attached are all the documents addressing your requests for technical changes to the remaining MFC rules in this package. There are seven response documents, 46 rules, and 14 supporting forms. Each of the forms contains the related rule in the file path and is referenced in the corresponding response document. Please let me know if you need anything further.

Jennifer

Jennifer Everett  
DEQ Rulemaking Coordinator  
N.C. Depart. Of Environmental Quality

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0135

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*In (b), line 8, are the contents of the application form described in another Rule or in a statute, as required by G.S. 150B-19(6)?*

Perhaps you are referring to G.S. 150B-2(8a)d. for the definition of "rule". If so, the decision to issue a permit for this rule is based on the inspection requirements in Paragraph (c), not the contents of the application forms. The application forms are purely administrative to facilitate an on-site inspection of the facility and equipment for compliance with the applicable rules in this Section. A copy of the application forms is provided for reference.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/5/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0302

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*In (e), line 19, are the contents of the application form described in another Rule or in a statute, as required by G.S. 150B-19(6)?*

Perhaps you are referring to G.S. 150B-2(8a)d. for the definition of "rule". If so, the decision to issue a permit for this rule is based on the inspection requirements in Paragraph (f), not the contents of the application forms. The application forms are purely administrative to facilitate an on-site inspection of the facility and equipment for compliance with the applicable rules in Sections .0300 through .0800. A copy of the application forms is provided for reference.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/5/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0425

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*In (a)(3), lines 13-14, I think it would be clearer if the item was structured in an itemized list, such as:*

- (3) the harvest date;*
  - (A) if depurated . . . ;*
  - (B) if wet stored . . . ;*

*If you're unwilling to make that change, please delete the comma on line 14 between "date" and "and".*

[The comma has been removed on line 14 between "date" and "and".](#)

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

**Request for Changes Pursuant to  
N.C. Gen. Stat. § 150B-21.10**

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

If the request includes questions, please contact the reviewing attorney to discuss.

In order to properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

**Note the following general instructions:**

1. You must submit the revised rule via email to oah.rules@oah.nc.gov. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
  - Wrong: “~~a~~Association”
  - Right: “~~association~~ Association”
6. Treat punctuation as part of a word. For example:
  - Wrong: “day;; and”
  - Right: “~~day,~~ day, and”
7. Formatting instructions and examples may be found at:  
[www.ncoah.com/rules/examples.html](http://www.ncoah.com/rules/examples.html)

**If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.**

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0301

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*In (a)(2), lines 18-19, just to be clear, the two rules referenced—15A NCAC 03R .0118 and 15A 03R .0107—both define a series of fairly detailed geographical areas with ramifications for the timing of seasons and use of gear. I wanted to make sure there were no conflicts between these areas?*

Correct, there are no conflicts between these areas. Rule 15A NCAC 03R .0118 delineates two easily-identifiable areas north and south of a line. This is essentially overlaid with the areas delineated in 15A NCAC 03R .0107. The former addresses crab harvest management areas and the latter addresses pot usage areas at large, as pots are used in other fisheries besides the crab fisheries. Please also see the related response in the request for 03R .0118.

*In (c), p. 2, line 2, when you say the “gear owner’s last name and initials shall be identified on the attached buoy using an engraved buoy...” do you mean that the attached buoy shall be engraved? It sounds like you’re requiring a buoy attached to another buoy as currently drafted.*

That is not the intended meaning. Please see the amended rule for clarification to this language.

*In (h) generally, what variable conditions are at play that allow the Fisheries Director to impose further restrictions?*

Per 15A NCAC 03H .0103(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 variable conditions provided in Subparagraphs (b)(1) through (b)(8) of 03H .0103. In the course of issuing a proclamation under 15A NCAC 03J .0301, the Fisheries Director would be addressing one of these variable conditions in accordance with the then-current circumstances.

*In (h)(4), line 37, what “requirements” are at play here? Is this a waiver of the rest of this Rule, or of the Rules otherwise governing licensure, as defined by G.S. 150B-19(6)? If so, what specific guidelines will the Director consider in making this waiver?*

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22



Per G.S. 113-221.1(a), "Chapter 150B of the General Statutes does not apply to proclamations issued under this Article." Additionally, the intended meaning of (h)(4) is for the Fisheries Director to have the authority to specify that requirements for the use of pots issued by proclamation as otherwise set forth under Paragraph (h) apply to a commercial fishing operation or that the requirements apply to a recreational purpose or that the requirements apply to a commercial fishing operation and to a recreational purpose, depending on the variable conditions in play at the time of issuance. Please see the amended rule for clarification to this language.

*In your History Note, do you need a reference to G.S. 113-168 or any of the statutes following it that pertain to commercial licenses, given the provisions of (h)?*

No, please see the response just above.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03L .0205

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*In (b), where is your statutory authority for the Director to designate areas as crab spawning sanctuaries by proclamation? As I read G.S. 113-221.1, the proclamation authority extends only to waiving or imposing already established Rules.*

G.S. 113-221.1(b) provides the "Marine Fisheries Commission may delegate to the Fisheries Director the authority to issue proclamations suspending or implementing, in whole or in part, particular rules of the Commission that may be affected by variable conditions." Variable conditions include compliance with Fishery Management Plans (FMPs; 15A NCAC 03H .0103(b)(4)). In this instance, the Marine Fisheries Commission has delegated authority via 15A NCAC 03L .0205(b) to the Fisheries Director to issue proclamations implementing the requirements of that Paragraph for the management of crab spawning sanctuaries, which are a management strategy in the N.C. Blue Crab Fishery Management Plan.

Under G.S. 113-182.1, the Division of Marine Fisheries prepares FMPs for adoption by the Marine Fisheries Commission. The goal of the FMPs is to ensure the long-term viability of the fisheries. The law sets requirements for prescribed time periods to end overfishing and achieve a sustainable harvest. In March 2018, the stock assessment for blue crab determined the stock is overfished and overfishing is occurring. In February 2020, the Marine Fisheries Commission adopted [Amendment 3 of the N.C. Blue Crab Fishery Management Plan](#) to rebuild the blue crab stock and also implemented additional stock and habitat protection measures. Amendments to several Marine Fisheries Commission rules were promulgated to fully implement Amendment 3, including 15A NCAC 03L .0205. Amendment 3 included new crab spawning sanctuaries that were initially established in 2020 for compliance with the FMP by the proclamation authority under 03L .0205(b) in Beaufort, Bogue, Bear, Browns, New River, Topsail, Rich, Mason, Masonboro, Carolina Beach, Cape Fear River, Shallotte, Lockwoods Folly, and Tubbs inlets with a March 1 to Oct. 31 closure. These same new crab spawning sanctuaries will be codified in permanent rule via 15A NCAC 03L .0205 and 03R .0110. Implementing the sanctuaries by proclamation initially, in 2020, provided a head start on rebuilding the blue crab stock while awaiting the permanent rule amendments to become effective, which can occur no sooner than the 31<sup>st</sup> legislative day of the 2023 long session, thus beginning the process to comply with the time periods for rebuilding the blue crab stock per the FMP.

The origin of using crab spawning sanctuaries for protection of the blue crab stock is found in [Amendment 2 of the N.C. Blue Crab Fishery Management Plan](#). In November 2013, the Marine Fisheries Commission adopted Amendment 2, which expanded the Fisheries Director's proclamation authority to include designating new crab spawning sanctuaries. Under certain conditions set out in the FMP the Fisheries Director is able to expand existing or designate new crab spawning sanctuaries to help improve the condition

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

of the stock. Prior to Amendment 2, proclamation authority was limited to extending harvest restrictions in the five existing spawning sanctuaries during their open period of Sept. 1 through Feb. 28.

To address your request, G.S. 113-182.1 has been added to the history note of 15A NCAC 03L .0205.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03R .0110

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*Throughout, what is the "COLREG Demarcation Line"? Will your regulated public know?*

Various N.C. fishing statutes, rules, and proclamations apply only in the Atlantic Ocean. The Division of Marine Fisheries uses as the boundary between the Atlantic Ocean and the inside sounds a federally designated line. The COLREG Demarcation Lines or "International Regulations for Preventing Collisions at Sea" were established by the U.S. Coast Guard to designate where "International Rules of the Road" separate from "U.S. Inland Rules". Individual lines were established, where practical, by physical objects like fixed aids to navigation or prominent points of land, because they are readily discernable by eye rather than by instruments. Our regulated stakeholders are intimately familiar with the COLREG Demarcation Line in 03R .0110.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03R .0118

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*In general, I've noticed in other Rules establishing management areas for other species (see, for example, 03K .0103 for shellfish management areas), there is language defining the purpose of the management area. Is there similar language for crab harvest management areas? Is it 03L .0201? If so, I still don't see any "purpose" type language.*

The language you are seeking is found in the current amendment to the [N.C. Blue Crab Fishery Management Plan](#) (FMP). The goal of the Blue Crab FMP is to manage the blue crab fishery to achieve a self-sustaining population that provides sustainable harvest using science-based decision-making processes. The Marine Fisheries Commission adopted Amendment 3 of the Blue Crab FMP in February 2020 to rebuild the blue crab stock and also implemented additional stock and habitat protection measures. Amendments to several Marine Fisheries Commission rules were promulgated to fully implement Amendment 3, including 15A NCAC 03R .0118. Amendment 3 included closed seasons for the two crab harvest management areas that were initially established in 2020 for compliance with the FMP by the proclamation authority under 15A NCAC 03L .0201. These same new closed seasons will be codified in permanent rule via 15A NCAC 03L .0201 and 03R .0118. Implementing the closed seasons by proclamation initially, in 2020, provided a head start on rebuilding the blue crab stock while awaiting the permanent rule amendments to become effective, which can occur no sooner than the 31<sup>st</sup> legislative day of the 2023 long session, thus beginning the process to comply with the time periods for rebuilding the blue crab stock per the FMP, under G.S. 113-182.1. Accordingly, this law has been added to the history note of 15A NCAC 03L .0201.

*On line 5, why is the reference to 03J .0301 deleted? 03J .0301 was amended in this package, but the reference there to 03R .0118 remains.*

Rule 15A NCAC 03R .0118 provides the delineations for the crab harvest management areas. The corresponding crab harvest restrictions that apply in crab harvest management areas are set forth in 15A NCAC 03L .0201. The restrictions in 15A NCAC 03J .0301 apply not only to pots in crab harvest management areas, but also various other areas of the marine and estuarine waters of the State and to pots used to target species other than crabs. But the originating requirements for crab harvest management areas reside in 03L .0201. Please also see the related response in the request for 03J .0301.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

**Request for Changes Pursuant to  
N.C. Gen. Stat. § 150B-21.10**

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

If the request includes questions, please contact the reviewing attorney to discuss.

In order to properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

**Note the following general instructions:**

1. You must submit the revised rule via email to oah.rules@oah.nc.gov. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
  - Wrong: “~~a~~Association”
  - Right: “~~association~~ Association”
6. Treat punctuation as part of a word. For example:
  - Wrong: “day;; and”
  - Right: “~~day,~~ day, and”
7. Formatting instructions and examples may be found at:  
[www.ncoah.com/rules/examples.html](http://www.ncoah.com/rules/examples.html)

**If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.**

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0101

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In (2), line 11, where is your statutory authority to regulate any “natural or manmade waterway[s]” and “river[s]” outside of the marine and estuarine environment?*

The phrase "under the authority of the Marine Fisheries Commission" has been added to the end of Item (2) to clarify.

*In the History Note, do you need a reference to G.S. 113-181?*

It has been added to the History Note; thank you.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0110

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*On line 4, for clarity, would it change the meaning to say "...use seines 30 feet or longer for recreational purposes..."*

*It would not change the meaning and is much clearer. The text has been changed accordingly; thank you.*

*On lines 7-8, when you say the "gear owner's last name and initials shall be identified on the attached buoy using an engraved buoy..." do you mean that the attached buoy shall be engraved? It sounds like you're requiring a buoy attached to another buoy as currently drafted.*

*That is not the intended meaning. Please see the amended rule for clarification to this language.*

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22



REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03K .0101

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In (a), line 11, please delete "such".*

Completed

*In (b), lines 20-21, can you be more specific about what kind of "public health purposes not specified in Paragraph (a)" you're referring to?*

Text has been added consistent with the variable conditions set forth in 15A NCAC 03H .0103, specifically Subparagraph (b)(8) of that Rule.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03K .0201

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In (b)(5), it is unclear to me how the minimum size limit can be “not less than three inches” but also be “not less than two and one-half inches” at the same time.*

The "except" language is intended to convey that for any purpose (except one purpose) the minimum size limit shall not be less than three inches from public bottom. The "except" is if the purpose of the proclamation is to prevent loss of oysters due to predators, pests, or infectious oyster diseases, then the proclamation can set the minimum size limit as low as two and one-half inches. This practice is consistent with the [N.C. Oyster Fishery Management Plan](#) and allows for harvest to occur sooner than would otherwise be allowed so the entire resource is not wasted when a predator, pest, or infectious oyster disease is threatening the oyster populations of the State. The language has been amended to clarify the intended meaning.

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03K .0204

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In (2), line 10, please capitalize "state" if referring only to the State of North Carolina.*

Completed

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03K .0301

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In (a), line 10, as the subject of the sentence is "Clams" please change "it was" to "they were".*

Completed

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03K .0304

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In (b), line 11, consider capitalizing "internal waters" as it is capitalized in other Rules.*

Completed

*In (b), line 15, please consider revising "such activities" to clarify the purpose of this portion of the Rule. It is unclear whether "such activities" refers to the activities permitted under .0104, .0107, and .0401, or the activities permitted under this Rule.*

The phrase "such activities" has been changed to "those activities" to clarify that the exemption from the requirements of 03K .0304 applies to the activities permitted under 15A NCAC 03K .0104, .0107, and .0401.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03K .0505

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*On line 4, please remove the parenthetical and incorporate into the body of the Rule. Also, as height and length can be two different things, please clarify which dimension you're attempting to regulate.*

Completed

*On line 5, please clarify the language regarding the 10% tolerance. If it's your intent to say that scallops up to 10% smaller than 3.5 inches can be taken, the language doesn't make that clear.*

The 10% tolerance speaks to not more than 10% of the overall number of sea scallops harvested can be smaller than the minimum shell height of three and one-half inches, not a tolerance on the measurement of the shell height, so the language has been clarified accordingly.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03L .0105

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In (2), line 8-9, am I reading this correctly that recreational shrimpers can take shrimp from an area closed to the taking of shrimp?*

The rule has been amended to add the word "commercial" so that the phrase reads ". . . from areas closed to the commercial taking of shrimp".

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03M .0201

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In (c)(3), line 13, I believe the Rule reads that it is unlawful to import, buy, etc, striped bass **except** (1) during open striped bass season of another state **and** (2) the person is not in possession of a bill of lading and a state issued tag affixed to the fish. Is this correct?*

Yes, this is correct. The only way you can import, buy, etc. striped bass during an open striped bass season of another state is if you have a bill of lading and a state-issued tag affixed to the fish. If the striped bass season of another state is open but you do not have a bill of lading and a state-issued tag affixed to the fish, then you are in violation of the rule. The word "without" has been replaced with "while in", to clarify the rule.

Additionally, in Paragraph (a), the definition of "striped bass" has been clarified to include striped bass and its hybrids "imported from other states", since portions of the rule set requirements about striped bass from other states, not just striped bass taken from Coastal and Joint Fishing Waters.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22



REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03M .0204

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*Where is your statutory authority for enforcing limits established by the Atlantic States Marine Fisheries Commission? Is it G.S. 113-255?*

The authority rests with G.S. 113-182.1, Fishery Management Plans. This statute has been added to the History Note of 03M .0204. The harvest of striped bass taken from the Atlantic Ocean is covered by the [N.C. Fishery Management Plan for Interjurisdictional Fisheries](#). The goal of this plan is to adopt fishery management plans approved by the Atlantic States Marine Fisheries Commission (ASMFC) and the federal fisheries councils by reference and implement corresponding fishery regulations in North Carolina to provide compliance or compatibility with approved fishery management plans and amendments now and in the future. The goal of these plans, established under the Atlantic Coastal Fisheries Cooperative Management Act (ASMFC plans) and the Magnuson-Stevens Fishery Conservation and Management Act (federal council plans) are similar to the goals of the N.C. Fisheries Reform Act of 1997 to "ensure long-term viability" of these fisheries.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03M .0205

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*Are the proclamations referenced in this Rule governed by other Rules? If so, please cross-reference.*

[The cross-references to the other rules have been added.](#)

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03M .0503

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In (d), lines 28-29, what are the "related requirements" in 03O .0500?*

The text has been clarified to read "permit requirements".

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0301

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In (a), line 6, where is your statutory authority to limit the number of licenses a person can hold?*

Upon closer review, Paragraph (a) has been deleted. The intent of the requirement is to limit an individual to a single recreational possession limit, in accordance with the authority set out in G.S. 113-173. Instead of Paragraph (a), 15A NCAC 03O .0303(a) and (e) have been modified to indicate a Recreational Commercial Gear License (RCGL) holder is limited to a single possession limit, regardless of the number of RCGLs an individual holds.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0303

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In (a), line 5, what does it mean to possess "more than a single recreational limit"?*

Per G.S. 113-173(a), a Recreational Commercial Gear License (RCGL) allows a person to use authorized commercial fishing gear to take fish for personal use subject to recreational possession limits and makes it unlawful to fish in excess of recreational possession limits. So, if the recreational possession limit for bluefish is three fish, then a RCGL-holder is limited to "a single recreational limit" of three bluefish whether they are using authorized commercial gear (i.e., a 100-yard shot of gill net) or recreational gear (hook-and-line) to harvest those fish.

*Don't (a) and (b) essentially say the same thing? It seems to me they're both saying that the amount of the limit is tied directly to the number of individuals holding a RCGL on the vessel, except as provided in (f).*

Paragraph (a) addresses a situation where, for example, three individuals are on board but only one is a RCGL-holder. In this instance, the vessel is limited to a single recreational possession limit with the use of commercial gear. Paragraph (b) addresses a situation where, for example, three individuals are on board and all three are RCGL-holders. In this instance, the vessel is limited to three recreational possession limits with the use of commercial gear. Parsing it out this way more clearly aligns with Paragraphs (e) and (f), respectively: Paragraph (a)/1 RCGL-holder/1 recreational limit = Paragraph (e)/1 shrimp limit; Paragraph (b)/3 RCGL-holders/3 recreational limits = Paragraph (f)/2 shrimp limits, period. Similarly, Paragraphs (c) and (d) set out requirements for a single individual or multiple individuals, respectively.

*In the History Note, why do you cite to G.S. 113-170.4?*

This statute grants authority to the Marine Fisheries Commission to "adopt rules governing possession . . ." and this rule sets possession limits for RCGL-holders.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0401

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*In (a), the Rule gives the various officers named the ability to “name a designee and an alternate designee to serve” on the Eligibility Board. To be clear, only one designee from each office serves on the Board at a time, correct?*

Yes, that is correct.

*In the History Note, have the provisions of SL 1998-225 been codified in the General Statutes? If so, it would be preferable to cite to G.S. instead of a session law.*

No, Session Law 1998-225, Section 4.24 modified Session Law 1997-400, Section 5.2. The requirements were not codified in the General Statutes.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0402

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In (a), line 5, are the contents or substantive requirements of the application form prescribed in another Rule or statute? Is the information required by the form the same as what is required in R. 404 and 405?*

The majority of the substantive requirements of the application form are already included in 03O .0404 and .0405; however, the "Individual or Business Agent Participant Information" fields are not already included. These have been added to 03O .0405. A copy of the "SCFL Eligibility Pool Application Packet" is provided for reference.

*In (f), what address change is the applicant required to disclose? Home or business? Or both?*

It could be either one or both, depending on if the "applicant" is a corporation or an individual.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0404

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In Item (2), lines 29 and 34, please consider revising to remove "such" in the interests of clarity.*

Completed

*In (2)(c), p. 1, line 36 to p. 2, line 2, what is the number of convictions that would cause suspension or revocation of the license, endorsement, etc?*

A reference to the appropriate rule has been added. Similarly, a reference to the appropriate rule has been added on page 2, line 5 and in 15A NCAC 03O .0405 in regards to the same material on page 2, line 4.

*In (3), p. 2, line 23, who is the responsible party? Elsewhere throughout the Rule you use "applicant."*

The phrase "responsible party" has been replaced with "applicant".

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22



**Request for Changes Pursuant to  
N.C. Gen. Stat. § 150B-21.10**

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

If the request includes questions, please contact the reviewing attorney to discuss.

In order to properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

**Note the following general instructions:**

1. You must submit the revised rule via email to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov). The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
  - Wrong: “~~a~~Association”
  - Right: “~~association~~ Association”
6. Treat punctuation as part of a word. For example:
  - Wrong: “day;; and”
  - Right: “~~day,~~ day, and”
7. Formatting instructions and examples may be found at:  
[www.ncoah.com/rules/examples.html](http://www.ncoah.com/rules/examples.html)

**If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.**

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03K .0208

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In your History Note, I believe you need a reference to G.S. 113-221.1, with respect to the mention of the Director's authority to issue proclamations.*

Completed

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03K .0209

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

*In (b), lines 16-17, can you be more specific as to the meaning of “biological impact” and “user conflict”?*

[These variable conditions are consistent with 15A NCAC 03H .0103\(b\).](#)

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

**Request for Changes Pursuant to  
N.C. Gen. Stat. § 150B-21.10**

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REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03I .0101

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

*In (1)(c), line 19, is "Coastal Fishing Waters" as defined in 03Q .0103? If so, a cross reference would be useful here.*

The phrase "Coastal Fishing Waters" is defined in G.S. 113-129(4).

*In (1)(f), p.2, line 1, what are "shellfish growing waters"?*

The phrase "Shellfish Growing Waters" is defined in 15A NCAC 18A .0901 and the proposed text has been amended accordingly.

*In (1)(f)(iv), line 11, what are the "other potential sources of pollution" that would render consumption of shellfish hazardous? Are these defined elsewhere?*

The intent of the five parts in (1)(f) is to represent both the areas the Division has deemed "polluted" because of specific sampling results (Part (1)(f)(i)), or areas the Division has deemed polluted because of the presence of a significant potential source of pollution without any specific sampling results (Parts (1)(f)(ii), (iii), and (iv)). For Part (1)(f)(ii), if the Division has identified a wastewater treatment plant discharge or other point source discharge (e.g., an industrial discharge), the division will automatically put a buffer closure in place regardless of sampling results so that there is a margin of safety in case a problem arises with their treatment process. There is also a risk from these discharges that unsampled items (e.g., pharmaceuticals, hormones, etc.) could be present, so the buffer zone also ensures that there is not shellfish harvest occurring nearby. In the case of marinas (Part (1)(f)(iii)), there are numerous potential contaminants that are either ephemeral or not monitored (e.g., an overboard discharge of waste is short lived but can contaminate shellfish; chemicals from hull scraping might not be monitored; etc.), so again the Division will put a buffer zone in place even though there are not specific sampling results showing contamination. Part (1)(f)(iv) provides the flexibility to identify other areas where the Division may not have specific sampling results showing contamination, but where Division staff have deemed the potential risk to be high enough that it is warranted to have a buffer closure in place anyways. Potential examples include a small commercial boatyard that may not meet the definition of a marina, but has significant boat maintenance activities occurring over or near the water that poses enough of a risk that there is a need to have the surrounding area deemed to be polluted. As another example, if there is a location where Division staff keep coming across failing septic systems, a closure may be put in place around that location even if, on the day of the survey, those failures are not reaching surface waters. Part (1)(f)(iv) as written is intended to be a catch-all for other categories of potential pollution identified during field visits aside from those defined in Part (1)(f)(ii) and (iii) that may cause contamination

Brian Liebman

Commission Counsel

Date submitted to agency: 4/4/22

problems. The other categories cannot be further defined by nature of not being able to anticipate every possible source of contamination.

*In (1)(f)(v), do I understand correctly that the Division presumes that shellfish growing waters are polluted unless monitoring shows that they are not? Is there statutory authority for this?*

Yes, and yes. G.S. 113-221.2 provides authority to the Marine Fisheries Commission to adopt rules establishing sanitation requirements for the harvesting, processing, and handling of scallops, shellfish, and crustacea of in-State origin for the protection of the public health. The Commission may also regulate scallops, shellfish, and crustacea shipped into North Carolina. Additionally, North Carolina is part of the National Shellfish Sanitation Program (NSSP), which is a federal/state cooperative program designed to promote and improve the sanitation of shellfish (oysters, clams, mussels, and scallops) moving in interstate commerce. Division of Marine Fisheries staff work together with representatives from other states, the federal government, and industry through the Interstate Shellfish Sanitation Conference to develop guidelines for all state shellfish programs that are summarized in the NSSP Guide for the Control of Molluscan Shellfish (Guide). North Carolina must meet the minimum standards included in this Guide in order for North Carolina shellfish to be able to be sold through interstate commerce. Consistent with the NSSP Guide, if the Division is unable to complete the monitoring necessary to determine that an area meets water quality criteria and is free from contaminants, then it is considered by default to be polluted. This is further supported by two other Marine Fisheries Commission rules. Rule 15A NCAC 18A .0903 (Sanitary Survey) states in Paragraph (d) "A sanitary survey report shall be required to designate any portion of a shellfish growing area with a classification other than prohibited . . .". Rule 15A NCAC 18A .0907 (Prohibited Waters) states "Shellfish growing waters shall be classified as prohibited if: (1) no current sanitary survey, as set forth in Rule .0903 of this Section, exists for the growing area . . .".

*In (5)(d), p.9, line 13, does “franchise” refer only to perpetual franchises, or are there other kinds of franchises recognized by the law?*

It refers only to perpetual franchises.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03I .0104

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In (a)(1), line 10, please capitalize “coastal fishing waters” to be consistent with the rest of the Rule.*

Completed

*In (b)(1), lines 27-29, what is it that the Fisheries Director is determining? Is it the diseases that pose a risk to NC’s marine or estuarine resources/environment? If so, how is this determination made and how is the veterinary service to know what diseases these are?*

The Fisheries Director is determining the level of risk posed by allowing introduction, transfer, or use as live bait organisms or material, based upon the pathology tests required by 03I .0104(b)(1) and (b)(2). Pathology tests are required from certified labs that test for diseases that pose a risk to North Carolina’s marine or estuarine resources or their environment: a certified statement from an approved pathologist at an accredited laboratory, having tested a random sample of 60 individuals from the shipment or population in question. The certified statement and accompanying results must indicate the absence of any known disease for that organism and must accompany the application for permit. The certification will be considered valid for the batch tested for a period of 30 days from the time the product is pulled for testing. Testing includes a histopathological examination and an established diagnostic assay for that organism, such as those described in the World Organization for Animal Health (OIE) Manual of Diagnostic Tests for Aquatic Animals; or the American Fisheries Society Fish Health Section (AFS-FHS) Blue Book – Suggested Procedures for the Detection and Identification of Certain Finfish and Shellfish Pathogens.

*In (c), line 33, add the oxford comma following “quarantine”.*

Completed

*In (c), for my information, how can destruction of organisms/materials be a condition of a permit? What is being imported at that point?*

This would come into play if there are any changes that cause the organisms or transfer materials to present a new or increased risk to the marine and estuarine resources of North Carolina after the permit is approved. The sequence is a permit is issued to an eligible permittee with conditions. The conditions include that if, in

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

the process of undertaking the activities otherwise approved by the permit, changes occur that reveal the continued process of importation would pose a risk to the marine or estuarine resources of the State or their environment then the organisms and materials must be destroyed.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22



REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03I .0114

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In (a)(1), line 5, define or delete "accurately" and "legibly."*

The word "accurately" has been removed and "record false information" has been added. The word "legibly" has been retained based on its everyday meaning of "capable of being read".

*In (a)(1), line 5, what are the mandatory items on the NC trip ticket? Are these defined elsewhere?*

A list of the mandatory items has been added to the rule. In so doing, a new first introduction of "Division of Marine Fisheries" appears on line 13, so reference to the "Division" has been shortened on line 28, consistent with other MFC rules. Also, the examination of the mandatory items on the N.C. trip ticket resulted in a change to clarify on line 30 that "N.C. Trip Ticket Program Dock Tickets" are also acceptable for inspection by Marine Fisheries inspectors, in addition to paper or electronic copies of trip tickets.

*In (a)(5), line 18, does your regulated public know what software or web-based utilities are authorized by the Division?*

Yes. The commercial seafood dealers know what software and/or web-based utilities are authorized by the Division. When someone becomes a seafood dealer, they are immediately assigned to a commercial port agent that serves as a liaison between the dealer and the Division. The port agent will meet with the dealer and walk them through all of the necessary reporting requirements and give the dealer an option to choose whether they would like to report using paper trip tickets or whether they prefer to report electronically. If they choose to report electronically, the port agent designates a biologist at the Division who will install the appropriate software on the dealer's computer. Training is then supplied by the biologist to the dealer on how the software works and how to submit the data properly. A web-based utility is being developed and will be available to the seafood dealers to use in the near future. Once it is available, the dealers would be contacted by the biologist to obtain the link and the credentials to create an account on the appropriate platform. In the process of addressing this request, the agency identified that the second sentence of (a)(5) is unnecessary; reporting via electronic submittals automatically creates a record, so there is no one on which to place "other recordkeeping requirements in accordance with G.S. 113-168.2".

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0105

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

*In (b)(1)(A), line 9, and in (e), p.2, line 24, are there any relevant requirements laid out in SL 2012-190 that were not codified in G.S. 113-187? If not, I think the reference should be changed to cite to the G.S.*

After closer review, changes have been made to remove any reference to S.L. 2012-190 or G.S. 113-187 in Subparagraph (b)(1). The current version of the Subparagraph references areas in the Atlantic Ocean during the periods and within an area described in 15A NCAC 03R .0111 and by S.L. 2007-320. The former describes five areas in the Atlantic Ocean and the latter described the ocean waters off Brunswick County in which the use of a purse seine was prohibited during certain times. S.L. 2012-190 repealed S.L. 2007-320 and amended G.S. 113-187 to modify this gear prohibition. While the Session Law expanded the time period to be year-round and the geographic region to be Coastal Fishing Waters [defined by G.S. 113-129(4)], the gear prohibition itself was further specified to be the use of a purse seine net deployed by a mother ship and one or more runner boats, not the use of a purse seine alone. The prohibition on the use of a purse seine alone in the five areas referenced in 03J .0105 and described in 03R .0111 is what is intended to be preserved via the proposed rule, not the prohibition on the use of a purse seine alone in all waters of the Atlantic Ocean (as the geographic scope of the latest Session Law sets forth but only for the use of purse seine net deployed by a mother ship and one or more runner boats). The agency was simply trying to update the session law reference, not apply the increased geographic scope to the use of a purse seine alone. As a result, the surplusage is now proposed to be struck from 03J .0105(b)(1).

*In (e), line 24, the Rule refers to Subparagraph (b)(6) of this Rule. The last subparagraph in (b) is (5). Please correct.*

Corrected

*In (f), what is a "fish spill"?*

A fish spill from a purse seine is usually only when fish that are harvested in a purse seine net are being transferred to a mother ship and the net becomes entangled or torn, resulting in the harvested fish "spilling" into the open water, often yielding a large number of dead fish that may be mistaken by the public and reported as a fish kill (not a "fish spill"). It is a rare event made rarer by Session Law 2012-190 and the resulting prohibition Statewide on the use of a purse seine deployed by a mother ship and runner boats. Currently, the Division of Marine Fisheries is not aware of any purse seine operations with the use of a purse seine alone; however, it is possible one could occur and it is possible that a fish spill from a purse seine could

Brian Liebman

Commission Counsel

Date submitted to agency: 4/4/22

occur, thus the requirements about a fish spill are intended to remain. Stakeholders involved with specialized purse seine fisheries are intimately familiar with this term of art.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0305

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

*In (a), line 8, and (b), lines 17-18, when you say the “gear owner’s last name and initials shall be identified on the attached buoy using an engraved buoy...” do you mean that the attached buoy shall be engraved? It sounds like you’re requiring a buoy attached to another buoy as currently drafted.*

[That is not the intended meaning. Please see the amended rule for clarification to this language.](#)

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0103

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

*In (a), lines 7-8, please define the terms "buy vessel, run vessel, purse vessel".*

These vessels are merely examples of "any other vessel used in conjunction with a commercial fishing operation", so the terms have been deleted instead of defined.

*In (a), line 8, "except as specified" where?*

The intended meaning is "except as specified in G.S. 113-168.6". This is redundant to "requirements set forth in G.S. 113-168.6" and so "except as specified" has been deleted.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0105

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

*On lines 11-12, I am not sure I understand the reference to 03O .0101, as I don't see anything describing the Permit and Certificate of Compliance in that Rule.*

[The Permit and Certificate of Compliance appears in 03O .0101 on page 3, lines 31-33.](#)

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0109

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

*In the History Note, I believe a reference to G.S. 113-135 and 113-187 may be useful with respect to various provisions of this Rule that define unlawful behavior that isn't directly made unlawful in the other statutes cited here.*

[These laws have been added to the history note of the rule; thank you.](#)

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0113

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

*Where is your statutory authority for these reporting requirements? Is it G.S. 113-170.3?*

[Yes. This law has been added to the history note of the rule.](#)

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22



**Request for Changes Pursuant to  
N.C. Gen. Stat. § 150B-21.10**

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

If the request includes questions, please contact the reviewing attorney to discuss.

In order to properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

**Note the following general instructions:**

1. You must submit the revised rule via email to oah.rules@oah.nc.gov. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
  - Wrong: “~~a~~Association”
  - Right: “~~association~~ Association”
6. Treat punctuation as part of a word. For example:
  - Wrong: “day;; and”
  - Right: “~~day,~~ day, and”
7. Formatting instructions and examples may be found at:  
[www.ncoah.com/rules/examples.html](http://www.ncoah.com/rules/examples.html)

**If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.**

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03I .0105

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*In (c), line 11, the reference to Paragraph (c) should be changed to Paragraph (d).*

Completed

*In (c), lines 14 and 16, does "agents of the Fisheries Director" refer to "inspectors" or "protectors" as defined in G.S. 113-136?*

The phrase "agents of the Fisheries Director" refers only to "inspectors". The rule has been changed accordingly.

*Does this Rule have application to recreational fishermen who might use pots? Paragraphs (d) and (e) define the contours of "hardship" for commercial fisherman, but are silent for recreational fisherman.*

No, it does not apply. Pots are defined as commercial gear via 15A NCAC 03I .0101(3)(c). The requirements for the recreational use of commercial gear is set forth in G.S. 113-173 and 15A NCAC 03O .0302.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0501-.0505

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*Do you need a reference to G.S. 113-181 in your History Note for each of these Rules, given its reference to your statutory authority to regulate nets?*

Completed

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0501

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*In (d)(1), p.2, line 25, when you say the "gear owner's last name and initials shall be identified on the attached buoy using an engraved buoy..." do you mean that the attached buoy shall be engraved? It sounds like you're requiring a buoy attached to another buoy as currently drafted.*

That is not the intended meaning. Please see the amended rule for clarification to this language.

*I do not understand what you're requiring in (d)(2). Can you please clarify?*

The phrase "pound net set" is defined in 15A NCAC 03I .0101(3)(o) as "a fish trap consisting of a holding pen, one or more enclosures, lead or leaders, and stakes or anchors used to support the trap. The holding pen, enclosures, and lead(s) are not conical, nor are they supported by hoops or frames." The stakeholders that participate in the shrimp pound net fisheries are familiar with these requirements. Rule 15A NCAC 03J .0501(d)(2) is saying that you cannot use this type of net within 100 yards of a pound net set where a recreational user of this commercial gear is operating nor can you use this type of net within 300 yards of a pound net set where a permitted commercial user of this gear is operating. To further clarify the difference in the two types of operations, the word "operational" has been changed to "commercial" so that it reads "commercial permitted shrimp pound net set".

*In (e), what are the variable conditions that would affect pound nets such that the Director could issue a proclamation under 113-221.1?*

Per 15A NCAC 03H .0103(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 variable conditions provided in Subparagraphs (b)(1) through (b)(8) of 03H .0103. In the course of issuing a proclamation under 15A NCAC 03J .0501, the Fisheries Director would be addressing one of these variable conditions in accordance with the then-current circumstances.

*Also, please add G.S. 113-221.1 to your History Note.*

Completed

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

*Do you need a reference to G.S. 113-181 in your History Note, given it's reference to your statutory authority to regulate nets?*

Completed

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0502

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*In (b)(1), line 9, add an oxford comma following "organization."*

Completed

*In (b)(2), line 13, what kind of convictions are at issue? In your 03O rules, you defined conviction; I think adding a similar definition here would be helpful.*

Completed; also, clarifications have been added to lines 12-14 relative to the "licenses or privileges under suspension or revocation" as set forth under which rules, i.e., licenses under suspension or revocation per 03O .0114 or pound net set permits under suspension or revocation per 03O .0504.

*In (c)(6), p. 2, lines 22-23, what are "management measures adopted in fishery management plans" in reference to?*

I believe you mean (e)(6). Under G.S. 113-182.1, the Division of Marine Fisheries prepares fishery management plans (FMPs) for adoption by the Marine Fisheries Commission. The goal of the FMPs is to ensure the long-term viability of the fisheries. The law sets requirements for prescribed time periods to end overfishing and achieve a sustainable harvest. If a particular FMP was adopted and included management measures that impacted the use of pound nets for the FMP to be implemented, the Fisheries Director would ensure that issuance of a proposed Pound Net Set Permit complied with that FMP (and all other FMPs). To address your request, G.S. 113-182.1 has been added to the history note of 15A NCAC 03J .0502.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0504

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*On line 8, please clarify what investigations may be necessary?*

The investigations necessary include verifying the location of the pound net set and that it is in compliance with all laws and rules. The text has been amended accordingly.

*Does the procedure outlined in lines 4-9 apply to permits transferred to family following the death of the permittee? If not, please clarify what "approved and processed by the Division" on line 16 means.*

Yes, the procedure outlined applies to all types of transfers, including when a permit is transferred to family following the death of the permittee. For clarification, the requirements of this rule have been broken down into paragraphs. Also, the reference for "approved and processed by the Division" has been added.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0111

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In the History Note, please cite to the portions of the G.S. where S.L. 2010-145 was codified, if possible.*

The agency is intending to cite the Session Law, in particular Section 1, for the context and history that led to the changes to G.S. 113-171 and 15A NCAC 03O .0111 (and other Marine Fisheries Commission rules). To address your request, the reference in the History Note has been updated to indicate Section 1.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22



REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0114

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*In (b), lines 6-7, where is your statutory authority to suspend or revoke licenses for violations of Chapter 14? G.S. 113-171 defines convictions as being for "criminal offense[s] within the jurisdiction of the Department under the provisions of this Subchapter (Subchapter IV of Chapter 113) ...."*

In addition to authority over fisheries-related statutes and rules, inspectors have authority under G.S. 113-136(b) over "all matters within the jurisdiction of the Department set out in this Subchapter, Part 5D of Article 7 of Chapter 143B of the General Statutes, Article 5 of Chapter 76 of the General Statutes, and Article 2 of Chapter 77 of the General Statutes." That includes general authority to make arrests without a warrant for "felonies, for breaches of the peace, for assaults upon them or in their presence, and for other offenses evincing a flouting of their authority as enforcement officers or constituting a threat to public peace and order which would tend to subvert the authority of the State if ignored." G.S. 113-136(d). The same statute also grants inspectors specific authority "to arrest for violations of G.S. 14-223 ["Resisting officers"], 14-225 ["False reports to law enforcement agencies or officers"], 14-269 ["Carrying concealed weapons"], and 14-277 ["Impersonation of a law-enforcement or other public officer]." The list of convictions under Chapter 14 on lines 6-7 resulting from being charged by an inspector fall within the general grant of jurisdiction under G.S. 113-136(d).

*In (f), p.2, line 6, how is the licensee to demonstrate that he or she will "conduct the operations for which the license is sought in accordance with all applicable laws and rules"?*

The text has been clarified to read "describe in the request how the licensee will conduct the operations for which the license is sought . . .".

*In (g), line 12, where is your statutory authority for this? What are the penalties associated with violation of (g)?*

Consistent with S.L. 2010-145, Section 1, Rule 15A NCAC 03O .0114 became effective Oct. 1, 2012 and included the requirement that it is unlawful for any licensee willfully to evade the personal service for license suspension or revocation that was formerly contained in G.S. 113-171. For consistency with the request for 15A NCAC 03O .0111, the reference in the History Note to this session law has been updated to indicate Section 1. The penalty for a first conviction is a Class 3 Misdemeanor in accordance with G.S. 113-135(a)(1).

Brian Liebman  
Commission Counsel

Date submitted to agency: 4/4/22

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0502

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In (b)(1)(C), line 13, please define "valid".*

The word "valid" has been deleted.

*In the History Note, I believe you need a reference to G.S. 113-170.2, with respect to (b)(1)(F), and a reference to G.S. 113-170.3, with respect to (b)(1)(I).*

Completed; thank you

Also, consistent with your request for 15A NCAC 03J .0301 in the "Blue Crab" packet, the intended meaning of (b)(2)(D) is for the Fisheries Director to have the authority to specify that restrictions for the permitted purpose issued by proclamation as otherwise set forth under Subparagraph (b)(2) apply to a commercial fishing operation or that the restrictions apply to a recreational purpose or that the restrictions apply to a commercial fishing operation and to a recreational purpose, depending on the variable conditions in play at the time of issuance. Please see the amended rule for clarification to this language, consistent with the amendments made to 15A NCAC 03J .0301.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0504

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In (a), line 6, please explain the reference to G.S. 150B-2, as I don't see these terms used there in a way that appears relevant to this Rule.*

G.S. 150B-2(3) defines "license" to be "any certificate, permit, or other evidence, by whatever name called, or a right or privilege to engage in any activity . . .". Rule 15A NCAC 03O .0504(a) is clarifying that "certification" and "certificate of compliance" are functionally the same as "permit", which is included in the statutory definition of "license". In other words, issuing a "certification" and "certificate of compliance" extend a right or privilege to engage in the specified activities and thus, are subject to the requirements of this Rule.

*In (b)(3), are you saying the former licensee cannot apply for reinstatement of the revoked permit while the license remains revoked, or even after reinstatement of the license?*

Only the former is intended. To satisfy this request the phrase "while license privileges are revoked" has been added to the end of the sentence.

*In (d), lines 17-18, please remove the parenthetical and incorporate the parenthetical material into the body of the Rule.*

Completed

*In (g), p. 2, line 6, please change "it" to "he or she."*

Completed

*In (j), line 14, where is your statutory authority for this? What are the penalties associated with violation of (j)?*

While there is authority for setting the requirement for it to be unlawful to evade personal service of a license suspension or revocation as discussed in the request for 15A NCAC 03O .0114, there is not equivalent authority for setting this requirement relative to permit suspension or revocation, so this Paragraph has been deleted.

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03P .0101

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

*In (b), lines 12-13, please explain the reference to G.S. 150B-2, as I don't see these terms used there in a way that appears relevant to this Rule.*

G.S. 150B-2(3) defines "license" to be "any certificate, permit, or other evidence, by whatever name called, or a right or privilege to engage in any activity . . .". Rule 15A NCAC 03P .0101(b) is clarifying that "certification" and "certificate of compliance" are functionally the same as "permit", which is included in the statutory definition of "license". In other words, issuing a "certification" and "certificate of compliance" extend a right or privilege to engage in the specified activities and thus, are subject to the requirements of this Rule.

*In (d), was it your intention to state that for permits related to endangered or threatened species, statements to show compliance shall be postmarked within 5 days of receipt of the notice? If so, please revise accordingly, because the text is unclear. Otherwise, please clarify what this paragraph is doing.*

Yes, this is the intention. The text has been clarified.

*In (e), p.2, line 1, please define or delete "material".*

The text has been clarified.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

**Request for Changes Pursuant to  
N.C. Gen. Stat. § 150B-21.10**

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

If the request includes questions, please contact the reviewing attorney to discuss.

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**Note the following general instructions:**

1. You must submit the revised rule via email to oah.rules@oah.nc.gov. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
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  - Wrong: “~~a~~Association”
  - Right: “~~association~~ Association”
6. Treat punctuation as part of a word. For example:
  - Wrong: “day;;and”
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7. Formatting instructions and examples may be found at:  
[www.ncoah.com/rules/examples.html](http://www.ncoah.com/rules/examples.html)

**If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.**

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0206

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*In (b), line 17, what supporting documentation is necessary?*

Any supporting documentation that the person making the request deems they need to support their request. No specific documentation is required by the Shellfish Cultivation Lease Review Committee; however, any supporting documentation must accompany the request within the timeframe stipulated so that all materials may be considered together by the Committee. Since it is G.S. 143B-289.57(f) that requires the Marine Fisheries Commission to adopt rules to establish procedures for the appeals, this law has been added to the history note of 15A NCAC 03O .0206.

*In (b), line 21, are the contents of the form specified elsewhere in another Rule or statute? If not, please describe them here.*

The substantive contents of the form are the factors specified in G.S. 113-202(g), which is referenced in Paragraph (b); the law is also listed in the history note of the Rule. A copy of the "SCLRC Appeals Form" is provided for reference.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22



REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0207

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*In (a), line 10, what supporting documentation is required?*

Documentation of purchased seed is required. Simplified wording is offered to clarify this.

*In (b) and (c), the Rule references a reporting form and "all required fields." Are the contents of this form adequately described in (a)? If there are other "required fields" other than "the amounts of material planted, purchased, and harvested," please specify what the required fields are.*

The "Planting Notice" forms for production for a bottom lease, water column lease, franchise, and a research/demonstration project lease contain fields for the shellfish lease or franchise holder to provide where and when the cultch material was obtained and when it was planted, so these items have been added to Paragraph (a). Copies of the forms are provided for reference. Also, Paragraph (a) references 15A NCAC 03O .0201 and .0202 that provide further information on production requirements. Additionally, the description of what constitutes a complete report in Paragraph (c) has been clarified.

*In your History Note, why have you added the reference to G.S. 113-206? It doesn't appear to touch on production reports or termination of a lease.*

G.S. 113-206 references franchises and states in (a1) "A shellfish lease granted under this subsection is subject to the restrictions imposed on shellfish leases in G.S. 113-202..." G.S. 113-202(11) authorizes the Marine Fisheries Commission to make rules defining commercial production of shellfish.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0208

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*In (b), line 24, what are you extending? Is this an extension of the ten-year lease period, or a period of forbearance on termination of the lease under G.S. 113-202?*

This is not an extension of the 10-year lease period, rather it is a period of forbearance on termination during the 10-year lease period due to not meeting production requirements. A period of forbearance is rarely requested by a lease holder, so it is a rare event. The reason for production requirements is to ensure lease holders are using their leases and working them for commercial production. Production requirements include planting *or* harvesting product, so if a natural disaster disrupts harvest, the planting effort is still counted towards production. The Division of Marine Fisheries tracks production annually for each shellfish lease holder and, because production is averaged over multiple years, it would take multiple years of not meeting production to be out of compliance with the production requirements. Therefore, the individual would be aware that they are not meeting production each year and would understand that they will be out of compliance unless they begin producing. Shellfish leases cannot be renewed if they are out of compliance at the time of renewal.

*Is there statutory authority for a hardship extension to the lease? G.S. 113-202(j) states that the initial lease shall be for 10 years, and that "Renewal leases are issued for a period of 10 years from the time of expiration of the previous lease."*

No, please see the previous response.

*In your History Note, why have you included the references to G.S. 113-205 and 113-206?*

G.S. 113-205 and G.S. 113-206 reference franchises.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0209

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*In (b), lines 16-18, where is your statutory authority for the requirements that the Division provide written consent to a transfer before it becomes effective and that the transfer be made only by the use of a form provided and approved by the Division? G.S. 113-202(k) states that leaseholds are treated as real property and are subject to laws relating to "sale... and the like." Moreover, 202(k) goes on to require only that transfer is not valid until the new owner notifies the Secretary.*

The proposed text is consistent with the authority for shellfish lease requirements generally. Requiring notification to the Division of Marine Fisheries before a shellfish lease is transferred or subleased (including providing information about the transferee and sublessee) ensures the transferee and sublessee have the correct training and meet all requirements for having a shellfish lease. This provides the opportunity to ensure the transferee or sublessee is eligible *before* a transfer or sublease occurs, not after. Doing so offers increased accountability and efficiency for use of the public trust bottom so as to not preclude other potential applicants from applying for a shellfish lease in affected areas.

Specifically, G.S. 113-201(b) provides the Marine Fisheries Commission with the authority to make rules and take all steps necessary to develop and improve the cultivation, harvesting, and marketing of shellfish in the State. The requirements in 03O .0209(b) are considered "necessary" to ensure continued growth and development of the shellfish industry, therefore improving it. Also, G.S. 113-201(c) provides the Commission with the authority to set training requirements for persons applying for new shellfish leases and for persons acquiring a transferred lease. The law provides for certain exemptions, but the Division is not able to assess eligibility for the exemptions at the time of transfer is the Division is not notified until 30 days after a transfer. It is critical for the Division to know when the transfer is occurring to ensure compliance with the law.

G.S. 113-202(c) includes a limitation on the number of acres an individual is allowed to lease. Again, if the Division is not aware of a transfer until after it has occurred, the Division may discover after the fact that the individual receiving the lease may not be eligible due to the amount of acres they already lease. Requiring information prior to the transfer aligns with the Commission's authority to "require the submission of information necessary to ensure compliance" with the limitation of acres leased. Further, consistent with G.S. 113-202(d), a transferee is treated the same as a new lease holder since a transferred lease is being sold permanently to the transferee. Finally, G.S. 113-202(p) states "All leases and renewal leases granted after the effective date of this Article are made subject to this Article and to reasonable amendment of governing statutes, rules of the Marine Fisheries Commission, and requirements imposed by the Secretary or his agents

Brian Liebman  
Commission Counsel

Date submitted to agency: 4/4/22

in regulating the use of the leasehold or in processing applications of rentals." The prior notice of transfer is a "reasonable amendment" to the rules of the Commission.

*With respect to the form referenced in (b), are the contents completely described in (c), or would the Division require any other information/documentation?*

The "Transfer Template" form contains additional fields not listed in the Rule, so these items have been added to Paragraph (c). A copy of the form is provided for reference.

*In (d), where is your statutory authority to limit the size of a transfer or sublease?*

The proposed rule amendment is not limiting the size of a transferred lease per se, rather it is remaining consistent with the minimum size requirement of an individual shellfish lease in Rule 03O .0201. The Marine Fisheries Commission developed and implemented those minimum size requirements via the authority provided in G.S. 113-202(b) and (c) to limit the number of acres to no more than 50 acres total for a person to lease.

*In (f), line 31, do you need to include a reference to 113-202.1(j), which also touches on transferability (or lack thereof) of certain water column leases?*

It would be redundant and possibly confusing to add this reference. G.S. 113-202.1(j) clearly states Shellfish Aquaculture Enterprise Areas (SEAs) are non-transferrable, so under 03O .0209(f) it is not necessary to reference a law that describes non-transferrable areas in the context of what can be transferred.

*In the History Note, why have you included the references to G.S. 113-205 and 113-206?*

G.S. 113-205 and G.S. 113-206 reference franchises.

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03O .0210

**DEADLINE FOR RECEIPT: Thursday, April 14, 2022.**

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

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

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

*In your History Note, why have you included the reference to G.S. 113-205?*

[G.S. 113-205 and G.S. 113-206 reference franchises.](#)

*Also, do you need a reference to G.S. 113-202.2, given that it touches on perpetual franchises?*

[This law has been added to the history note of the rule.](#)

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 4/4/22

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

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

4  
5 **SECTION .0100 – GENERAL RULES**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18  
19 *History Note: Authority G.S. 113-134; 113-174; 113-182; 143B-289.52;*  
20 *Eff. January 1, 1991;*  
21 *Amended Eff. March 1, 1995; March 1, 1994; October 1, 1993; July 1, 1993;*  
22 *Recodified from 15A NCAC 03I .0001 Eff. December 17, 1996;*  
23 *Amended Eff. April 1, 1999; August 1, 1998; April 1, 1997;*  
24 *Temporary Amendment Eff. May 1, 2000; August 1, 1999; July 1, 1999;*  
25 *Amended Eff. August 1, 2000;*  
26 *Temporary Amendment Eff. August 1, 2000;*  
27 *Amended Eff. May 1, 2015; April 1, 2014; April 1, 2011; April 1, 2009; October 1, 2008; December*  
28 *1, 2007; December 1, 2006; September 1, 2005; April 1, 2003; April 1, 2001;*  
29 *Readopted Eff. May 1, 2022.*

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

3

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

5 *Eff. January 1, 1991;*

6 *Amended Eff. November 1, 1991;*

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

8 *Amended Eff. April 1, 2009;*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (A) fisherman's name;

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

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

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

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

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

15 (G) crew size;

16 (H) gear fished;

17 (I) waterbody fished;

18 (J) species landed;

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

21 (L) disposition of species;

22 (M) transaction number;

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

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

25 (P) lease number, if applicable;

26 (Q) bottom type, if applicable; and

27 (R) shellfish harvest area, if applicable.

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

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

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

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

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

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

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

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

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

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

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

18 (1) name of the consignee;

19 (2) name of the shipper;

20 (3) date of the shipment;

21 (4) name of fish being shipped; and

22 (5) quantity of each fish being shipped.

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

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

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

32 (1) name of the licensed fish dealer;

33 (2) name of the purchaser;

34 (3) date of the purchase;

35 (4) name of fish purchased; and

36 (5) quantity of each fish purchased.

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

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





**3 -  
NORTH CAROLINA TRIP TICKET (CRAB)**

FISHERMAN NAME:	FISH DEALER #
FISHERMAN LICENSE #	CHECK BOX IF NO VESSEL USED → →
TRIP START DATE MO   DAY   YR	CFVR # <b>P</b>
UNLOADING DATE MO   DAY   YR	NO. OF CREW:

**CIRCLE ALL GEARS USED**

<b>330</b>	Crab Pot →	No. Of Pots Fished →	
<b>334</b>	Peeler Pot →	No. Of Pots Fished →	
<b>205</b>	Crab Trawl	<b>340</b>	Eel Pot <b>805</b> Crab Dredge
<b>206</b>	Peeler Trawl	<b>426</b>	Small Mesh Set Gill Net (< 5 in.)
<b>215</b>	Shrimp Trawl	<b>427</b>	Large Mesh Set Gill Net (>= 5 in.)
<b>275</b>	Pound Net	<b>475</b>	Runaround Gill Net

**CIRCLE ONE WATERBODY WHERE MOST OF CATCH WAS MADE**

<b>01</b>	Albemarle Sound	<b>30</b>	New River
<b>02</b>	Alligator River	<b>31</b>	Newport River
<b>03</b>	Bay River	<b>43</b>	North River/Back Sound
<b>05</b>	Bogue Sound	<b>33</b>	Pamlico River
<b>06</b>	Cape Fear River	<b>34</b>	Pamlico Sound
<b>07</b>	Chowan River	<b>35</b>	Pasquotank River
<b>08</b>	Core Sound	<b>36</b>	Perquimans River
<b>09</b>	Croatan Sound	<b>52</b>	Pungo River
<b>10</b>	Currituck Sound	<b>37</b>	Roanoke River
<b>53</b>	Inland Waterway - Brunswick	<b>45</b>	Roanoke Sound
<b>54</b>	Inland Waterway - Onslow	<b>38</b>	Shalotte River
<b>11</b>	Lockwood Folly	<b>39</b>	Stump Sound
<b>12</b>	Masonboro Sound	<b>41</b>	Topsail Sound
<b>29</b>	Neuse River	<b>42</b>	White Oak River

KIND	CODE	POUNDS	DSP	UNIT PRICE	TOTAL PRICE
Black Drum	2100				
Catfish Mixed	1700				
Flounder Med.	2303				
Lg.	2304				
Jumbo	2305				
Jumping Mullet	4350				
Puppy/Red Drum Redfish	2150				
Sheepshead	6000				
Speckled Trout	5300				
Spot	6750				
White Perch	7650				
Yellow Perch	7800				
Conchs/Whelks Shell Weight	9160				
Stone Crabs Pounds Claws	8150				
American Eels	2200				
Striped Bass	6800				
Sheepshead	6000				

KIND	CODE	TRANSACTION #		UNIT PRICE	TOTAL PRICE
		POUNDS	DSP		
Hard Crabs Straight (LB)	8000				
Culls (LB)	8006				
No. 1 (LB)	8001				
No. 2 (LB)	8002				
No. 3 (LB)	8003				
No. 4 (LB)	8004				
Jumbos (LB)	8005				
Hard Crabs Straight (Doz)	8030				
Hard Crabs Straight (BU)	8010				
No. 1 (BU)	8011				
No. 2 (BU)	8012				
No. 3 (BU)	8013				
Peeler Crabs Number	8060				
Dozens	8070				
Soft Crabs Number	8110				
Hotels Number	8112				
Primes Number	8113				
Jumbos Number	8114				
Slabs/Whales Number	8115				
Dead Soft Crabs Number	8130				
Soft Crabs Dozens	8120				
Hotels Dozens	8122				
Primes Dozens	8123				
Jumbos Dozens	8124				
Slabs/Whales Dozens	8125				
Crab, Horseshoe (No.)	8210				

DEDUCTED BAIT

Dealer/Fisherman Use

5 -  
**NORTH CAROLINA TRIP TICKET (RIVER)**

FISHERMAN NAME:		FISH DEALER #
FISHERMAN LICENSE #		CHECK BOX IF NO VESSEL USED → →
TRIP START DATE MO   DAY   YR		CFVR # <b>P</b>
UNLOADING DATE MO   DAY   YR		NO. OF CREW:

KIND	CODE	TRANSACTION #			
		POUNDS	DSP	UNIT PRICE	TOTAL PRICE
Gray Trout Mixed	5250				
River Herring Whole (LB)	1000				
Jacks (Hickory Shad)	3800				
Roe Jack	3806				
Buck Jack	3809				
Mixed Fish	7850				
Jumping Mullet	4350				
Mullet Red Roe	4357				
White Roe	4358				
Puppy/Red Drum	2150				
Roe Shad (American Shad)	5356				
Buck Shad (American Shad)	5359				
Sheepshead	6000				
Snapping Turtle	9500				
Speckled Trout	5300				
Spot	6750				
Striped Bass (Rock) Mixed	6800				
Med.	6803				
Lg.	6804				
White Perch Small	7652				
Med.	7653				
Lg.	7654				
Yellow Perch	7800				
Menhaden Bait (LB)	4200				
Mixed Bait	7900				

CIRCLE ALL GEARS USED		CIRCLE ONE WATERBODY WHERE MOST OF CATCH WAS MADE	
275	Pound Net	01	Albemarle Sound
310	Fyke/Hoop Net	02	Alligator River
340	Eel Pot	03	Bay River
345	Fish Pot	07	Chowan River
426	Gill Net Set, < 5 in. mesh	10	Currituck Sound
427	Gill Net Set, >= 5 in. mesh	53	Inland Waterway - Brunswick
475	Gill Net Runaround	54	Inland Waterway - Onslow
470	Gill Net Drift	29	Neuse River
680	Trotline	33	Pamlico River
610	Rod-n-Reel	34	Pamlico Sound
		36	Perquimans River
		52	Pungo River
		37	Roanoke River

KIND	CODE	POUNDS	DSP	UNIT PRICE	TOTAL PRICE
Black Drum	2100				
Bluefish	1350				
Carp	1650				
Catfish Mixed	1700				
White, Channel	1800				
Red, Bullhead	1750				
Eels, American	2200				
Flounder Small	2302				
Med.	2303				
Lg.	2304				
Jumbo	2305				
Mixed, Cut	2300				
Croaker Mixed	1950				
Small	1952				
Med.	1953				
Gars (Freshwater)	2500				
Gizzard Shad	2550				

Dealer/Fisherman Use

NORTH CAROLINA TRIP TICKET (SHRIMP)

Table with fisherman details including name, license #, trip start date, and unloading date.

CIRCLE IF CATCH WAS MADE OFF STATE OTHER THAN NORTH CAROLINA

Form for state/county information: 43 South Carolina, 13 Georgia.

CIRCLE ALL GEARS USED

Table of gear types and counts: 215 Shrimp Trawl, 180 Channel Net, 194 Skimmer Trawl.

CIRCLE ONE WATERBODY WHERE MOST OF CATCH WAS MADE

Table of waterbodies and counts: 03 Bay River, 05 Bogue Sound, 06 Cape Fear River, etc.

Large shaded area for dealer/fisherman use.

Main table for catch recording with columns for size, species (Brown Summer, Pink Spotted, White Greentails), heads on/off, transaction #, pounds, DSP, unit price, and total price.

FISHERMAN NAME:	FISH DEALER #
FISHERMAN LICENSE #	CHECK BOX IF NO VESSEL USED → →
TRIP START DATE MO   DAY   YR	CFVR # <b>P</b>
UNLOADING DATE MO   DAY   YR	NO. OF CREW:

**7 -  
NORTH CAROLINA TRIP TICKET (SHELLFISH)**

TRANSACTION #	
---------------	--

<b>CIRCLE BOTTOM TYPE</b>		IF CATCH WAS MADE FROM LEASED BOTTOM RECORD LEASE NUMBER BELOW
1	PUBLIC BOTTOM	
2	LEASED BOTTOM →	Lease # _____

**CIRCLE ALL GEARS USED**

<b>951</b>	By Hand	<b>815</b>	Oyster Dredge
<b>853</b>	Hand Rake	<b>823</b>	Bay Scallop Dredge
<b>850</b>	Bull Rake	<b>704</b>	Scallop Scoop
<b>840</b>	Hand Tongs	<b>220</b>	Clam Trawl Kicking
<b>802</b>	Clam Dredge Hydraulic	<b>395</b>	Oyster Cage/Rack/Bag

<b>DESIGNATED SHELLFISH HARVEST AREA</b>
Record harvest area designation from a Shellfish Sanitation map. _____

KIND	CODE	UNITS	DSP	UNIT PRICE	TOTAL PRICE
Clams (Number) Mixed	<b>9010</b>				
Clams (Number) Mixed	<b>9010</b>				
Little Neck	<b>9011</b>				
Top Neck	<b>9012</b>				
Cherry	<b>9013</b>				
Top Cherry	<b>9014</b>				
Chowder	<b>9015</b>				
Clams Bushels	<b>9020</b>				
Clams Bags	<b>9030</b>				
Blood Clams Shell Weight (LBS)	<b>9080</b>				
Blood Clams Number	<b>9090</b>				
Conchs/Whelks Shell Weight (LBS)	<b>9160</b>				
Number	<b>9180</b>				
Bay Scallops Bushels	<b>9310</b>				
Pounds Meats	<b>9300</b>				
Gallons	<b>9320</b>				
Oysters Bushels	<b>9260</b>				
Oysters Numbers	<b>9270</b>				
Stone Crabs Pounds Claws	<b>8150</b>				
Flounder Mixed	<b>2300</b>				

**CIRCLE ONE WATERBODY WHERE MOST OF CATCH WAS MADE**

<b>03</b>	Bay River	<b>31</b>	Newport River
<b>05</b>	Bogue Sound	<b>43</b>	North River/Back Sound
<b>06</b>	Cape Fear River	<b>33</b>	Pamlico River
<b>08</b>	Core Sound	<b>34</b>	Pamlico Sound
<b>09</b>	Croatan Sound	<b>52</b>	Pungo River
<b>53</b>	Inland Waterway - Brunswick	<b>45</b>	Roanoke Sound
<b>54</b>	Inland Waterway - Onslow	<b>38</b>	Shallotte River
<b>11</b>	Lockwood Folly	<b>39</b>	Stump Sound
<b>12</b>	Masonboro Sound	<b>41</b>	Topsail Sound
<b>29</b>	Neuse River	<b>42</b>	White Oak River
<b>30</b>	New River		
<b>20</b>	Ocean 0-3 miles (North of Cape Hatteras)		
<b>22</b>	Ocean greater than 3 miles (North of Cape Hatteras)		
<b>21</b>	Ocean 0-3 miles (South of Cape Hatteras)		
<b>23</b>	Ocean greater than 3 miles (South of Cape Hatteras)		

Dealer/Fisherman Use

**NORTH CAROLINA TRIP TICKET (CRAB POT MULTI-TRIP)**

**CIRCLE ONE WATERBODY WHERE MOST OF CATCH WAS MADE**

FISH DEALER #	<b>01</b>	Albemarle Sound	<b>08</b>	Core Sound	<b>12</b>	Masonboro Sound	<b>34</b>	Pamlico Sound	<b>38</b>	Shalotte River
FISHERMAN NAME:	<b>02</b>	Alligator River	<b>09</b>	Croatan Sound	<b>29</b>	Neuse River	<b>35</b>	Pasquotank River	<b>39</b>	Stump Sound
FISHERMAN LICENSE #	<b>03</b>	Bay River	<b>10</b>	Currituck Sound	<b>30</b>	New River	<b>36</b>	Perquimans River	<b>41</b>	Topsail Sound
<input type="checkbox"/> ← ← CHECK BOX IF <b>NO</b> VESSEL USED	<b>05</b>	Bogue Sound	<b>53</b>	Inland Waterway - Brunswick Co.	<b>31</b>	Newport River	<b>52</b>	Pungo River	<b>42</b>	White Oak River
CFVR # <b>P</b>	<b>06</b>	Cape Fear River	<b>54</b>	Inland Waterway - Onslow Co.	<b>43</b>	North River/Back Sound	<b>37</b>	Roanoke River	<b>20</b>	Ocean 0-3 miles North of Hatteras
NO. OF CREW:	<b>07</b>	Chowan River	<b>11</b>	Lockwood Folly	<b>33</b>	Pamlico River	<b>45</b>	Roanoke Sound	<b>21</b>	Ocean 0- 3 miles South of Hatteras

DATE →→	MO   DAY   YR				MO   DAY   YR				MO   DAY   YR				MO   DAY   YR				MO   DAY   YR			
	No. of Pots Fished		Transaction No.		No. of Pots Fished		Transaction No.		No. of Pots Fished		Transaction No.		No. of Pots Fished		Transaction No.		No. of Pots Fished		Transaction No.	
GEAR CODE	POUNDS UNITS	DSP	UNIT PRICE	TOTAL PRICE	POUNDS UNITS	DSP	UNIT PRICE	TOTAL PRICE	POUNDS UNITS	DSP	UNIT PRICE	TOTAL PRICE	POUNDS UNITS	DSP	UNIT PRICE	TOTAL PRICE	POUNDS UNITS	DSP	UNIT PRICE	TOTAL PRICE
330																				
Hard Crabs No.1 (lb) <b>8001</b>																				
Hard Crabs No. 2 (lb) <b>8002</b>																				
Hard Crabs No. 3 (lb) <b>8003</b>																				
Hard Crabs Jumbos (lb) <b>8005</b>																				
Hard Crabs Culls (lb) <b>8006</b>																				
Hard Crabs Straight (lb) <b>8000</b>																				
Peelers Number <b>8060</b>																				
Soft Crabs Number <b>8110</b>																				
Other:																				
Other:																				

<b>TOTALS</b>																				
Dealer/Fisherman Use																				



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

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

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

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

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

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

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

11 (B) By Session Law 2007-320.

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

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

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

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

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

18 (A) ~~— Pamlico Sound,~~

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

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

22 (D) ~~— Adams Creek,~~

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

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

25 (G) ~~— Newport River,~~

26 (H) ~~— North River, and~~

27 (I) ~~— Bogue Sound.~~

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

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

33 (A) Memorial Day;

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

35 and

36 (C) Labor Day.

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

- 4 (1) specify time;
- 5 (2) specify area;
- 6 ~~(A)(3) Specify specify means and methods by area which may be employed in the taking; methods;~~
- 7 (4) specify record keeping requirements;
- 8 (5) specify season; and
- 9 ~~(B)(6) Limit the quantity; and specify quantity.~~
- 10 ~~(C) Require submission of statistical and biological data.~~

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

- 12 (1) Pamlico Sound;
- 13 (2) Pamlico River east of a line from Wades Point to Intracoastal Waterway Marker No. 1 at the mouth  
14 of Goose Creek;
- 15 (3) Neuse River east of a line from Wilkinson Point to Cherry Point;
- 16 (4) Adams Creek;
- 17 (5) Core Sound and its tributaries;
- 18 (6) Back Sound, the Straits, and North River;
- 19 (7) Newport River;
- 20 (8) North River; and
- 21 (9) Bogue Sound.

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

- 25 (1) ~~It is unlawful to take menhaden, Atlantic thread herring, gizzard shad shad, or pinfish by use of a~~  
26 ~~purse seine between sunset on any Friday and sunrise of the following Monday from the Friday of~~  
27 ~~the Memorial Day weekend through sunset on Labor Day each year.~~
- 28 (2) ~~It is unlawful to take menhaden, Atlantic thread herring, gizzard shad shad, or pinfish by use of a~~  
29 ~~purse seine between the hours of sunrise and sunset on the following holidays:~~
  - 30 (A) ~~Memorial Day;~~
  - 31 (B) ~~Fourth of July, when the Fourth of July falls on any calendar day Friday through Monday;~~  
32 ~~and~~
  - 33 (C) ~~Labor Day.~~

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



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

7

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

9 *Eff. January 1, 1991;*

10 *Amended Eff. October 1, 2008;*

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

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

2

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

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

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

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

12

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

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

15 *Eff. August 1, 2000;*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (1) for pots with a divider:

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

26 (2) for pots without a divider:

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

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

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

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

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

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

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

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

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

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

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

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

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

15 *Eff. January 1, 1991;*

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

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

19 *Amended Eff. August 1, 2000;*

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

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

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

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

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

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

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

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

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

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

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

2  
3 **SECTION .0500 – POUND NETS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (e) Escape Panels:

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2

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

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

9

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

11 *Eff. April 1, 2009;*

12 *Readopted Eff. May 1, 2022.*

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

2

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

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

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

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

20

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

22 *Eff. April 1, 2009;*

23 *Readopted Eff. May 1, 2022.*

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

2

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

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

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

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

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

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

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

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

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

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

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

20

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

22 *Eff. April 1, 2009;*

23 *Readopted Eff. May 1, 2022.*

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

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

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

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

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

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

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

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

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

2  
3 **SECTION .0200 – OYSTERS**

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

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

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

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

19  
20 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-221.1; 143B-289.52;*  
21 *Eff. January 1, 1991;*  
22 *Amended Eff. May 1, 2017; October 1, 2008; March 1, 1996; September 1, 1991;*  
23 *Readopted Eff. May 1, 2022.*



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

2

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

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

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

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

13

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

15 *Eff. January 1, 1991;*

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

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

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

2

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

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

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

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

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

17

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

19 *Eff. October 1, 2008;*

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

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

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

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

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

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

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

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

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

2

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

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

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

17

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

19 *Eff. January 1, 1991;*

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

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

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

2

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

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

11

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

13 *Eff. January 1, 1991;*

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

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

2

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

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

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

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

10

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

12 *Eff. April 1, 2009;*

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

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

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

2  
3 **SECTION .0200 – CRABSCRAB**

4  
5 **15A NCAC 03L .0201 CRAB HARVEST RESTRICTIONS**

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

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

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

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

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

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

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

- 28 (1) male hard blue crabs less than five inches from tip of spike to tip of spike;  
29 (2) immature female hard blue crabs;  
30 (3) mature female hard blue crabs less than five inches from tip of spike to tip of spike; and  
31 (4) mature female hard blue crabs with a dark (brown or black) sponge from April 1 through April 30  
32 statewide. For the purpose of this Rule, a "mature female hard blue crab with a dark sponge" shall  
33 mean a mature female hard crab that has extruded her eggs on the abdomen or abdominal flap and  
34 the eggs have developed a coloration ranging from any shade of brown through black.

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

- 37 (1) soft crabs;

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

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

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

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

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

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

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

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

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

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

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



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

2

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

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

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

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

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

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

17

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

19 *Eff. January 1, 1991;*

20 *Amended Eff. May 1, 1997;*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 *Eff. January 1, 1991;*

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

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

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

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

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

2

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

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

9

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

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

2

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

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

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

11

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

13 *Eff. January 1, 1991;*

14 *Amended Eff. December 1, 2007;*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 is not exceeded.

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

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

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

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

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

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

8                       *Eff. January 1, 1991;*

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

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

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

13                      *Amended Eff. April 1, 1997;*

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

15                      *Amended Eff. April 1, 1999;*

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

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

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

19                      *Temporary Amendment Expired June 12, 2005;*

20                      *Amended Eff. September 1, 2005;*

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

1 15A NCAC 03O .0103 is readopted with changes as published in 36:07 NCR 486 as follows:

2

3 **15A NCAC 03O .0103 AUXILIARY VESSELS**

4 (a) ~~Buy boats, run boats, purse boats or any other vessels used in conjunction with commercial fishing operations,~~  
5 ~~except vessels without motors used in connection with other vessels with commercial fishing vessel registrations, shall~~  
6 ~~have a commercial fishing vessel registration.~~ It shall be unlawful to fail to comply with Commercial Fishing Vessel  
7 Registration requirements set forth in G.S. 113-168.6 to operate a ~~buy vessel, run vessel, purse vessel, or any other~~  
8 ~~vessel used in conjunction with a commercial fishing~~ operation, except as specified, operation.

9 (b) ~~A person~~ An individual in command of a vessel that is auxiliary to a vessel with a ~~commercial fishing vessel~~  
10 ~~registration~~ Commercial Fishing Vessel Registration with a ~~person~~ an individual aboard who holds a Standard  
11 Commercial Fishing License or a Retired Standard Commercial Fishing License engaged in a commercial fishing  
12 operation using a pound net, ~~long haul, long haul, or beach seine or purse seine~~ is exempt from the provisions of G.S.  
13 113-168.2 (a1).

14

15 *History Note: Authority G.S. 113-134; 113-168.1; 113-168.2; 113-168.5; 113-168.6; ~~113-169; 113-182; 143B-~~*  
16 *289.52;*

17 *Eff. January 1, 1991;*

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

19 *Amended Eff. August 1, 2000;*

20 *Readopted Eff. May 1, 2022.*



1 15A NCAC 03O .0109 is readopted with changes as published in 36:07 NCR 487 as follows:

2  
3 **15A NCAC 03O .0109 ASSIGNMENT OF ~~SCFL~~ STANDARD COMMERCIAL FISHING LICENSE**

4 (a) For the purpose of this Rule, "licensee" shall mean the person issued a Standard Commercial Fishing License and  
5 "assignee" shall mean the individual to whom the licensee assigns a Standard Commercial Fishing License in  
6 accordance with the requirements of this Rule.

7 ~~(a)~~(b) The Division of Marine Fisheries shall provide assignment forms to the licensee upon issuance of the Standard  
8 Commercial Fishing License. ~~request. Assignment must be made on the~~ Only Division assignment forms. ~~forms shall~~  
9 be used to obtain an assignment. On the assignment form, the ~~Standard Commercial Fishing License holder must~~  
10 licensee shall designate what, if any, endorsements are included in the assignment. Endorsements ~~may~~ shall not be  
11 assigned independent of the Standard Commercial Fishing License. It is ~~shall be~~ unlawful for the ~~Standard Commercial~~  
12 ~~Fishing License holder~~ licensee or the assignee to fail to submit within five days the completed assignment form to  
13 any office of the Division in person or by mail to the Morehead City ~~Division~~ Office. The Morehead City Office is  
14 located at 3441 Arendell Street, Morehead City, North Carolina, 28557. If the completed assignment form is not  
15 received by the Division within five days from the date it was signed, the assignment shall be null and void. Incomplete  
16 forms shall be returned to the licensee with deficiency in the form so noted. An assignment is in effect from the date  
17 specified on the assignment form and when:

- 18 (1) the assignment form is properly completed; ~~complete with all required information;~~  
19 (2) signatures of the current license holder and the assignee are notarized; and  
20 (3) the assignee has in their ~~the assignee's~~ possession the current licensee's original actual Standard  
21 Commercial Fishing License ~~with License, including applicable endorsements of the current license~~  
22 holder in accordance with G.S. 113-169.2.

23 (c) For an extension of time for assignments, a new assignment form shall be completed in accordance with  
24 Subparagraphs (b)(1) through (b)(3) of this Rule.

25 ~~(b)~~(d) Assignments ~~terminate when;~~ shall terminate:

- 26 (1) when the date specified on the assignment form is reached; ~~or~~  
27 (2) if the licensee or assignee are determined ineligible for a license or assignment; ~~or~~  
28 (3) if the Division receives a notarized statement from the current license holder stating a revised date  
29 for an earlier assignment termination; ~~or~~  
30 (4) upon the licensee or assignee's death; or  
31 (5) when the Standard Commercial Fishing License expires.

32 ~~If the properly completely assignment form is not received by the Division within five days from the date it was~~  
33 ~~signed, the assignment is null and void. For an extension of time for assignments, a new assignment form must be~~  
34 ~~completed in accordance with Subparagraphs (a)(1) — (3) of this Rule.~~

35 ~~(e)~~(e) It is ~~shall be~~ unlawful for an individual assigned a Standard Commercial Fishing License ~~to fail to have available~~  
36 ~~ready at hand for inspection all required documents as stated under G.S. 113-168.1. The assignee when involved in a~~  
37 ~~commercial fishing operation must to fail to have the original actual Standard Commercial Fishing License and~~

1 ~~License, any assigned endorsements~~ endorsements, and a copy of the assignment form in ~~their~~ the individual's  
2 possession ready at hand for ~~inspection~~ inspection in accordance with G.S. 113-168.1.

3 ~~(d)(f)~~ All landings occurring during the time of the assignment shall be credited to the ~~Standard Commercial Fishing~~  
4 ~~License holder, licensee,~~ not the assignee.

5 ~~(e)(g)~~ It ~~is~~ shall be unlawful to be assigned more than a single Standard Commercial Fishing License at any one time.  
6 It ~~is~~ shall be unlawful to assign a Standard Commercial Fishing License to more than one individual at any one time.  
7 Assignments ~~may~~ shall only be made by the ~~person issued the Standard Commercial Fishing License~~ licensee and  
8 ~~may~~ shall not be further assigned by assignees. Masters identified on the Standard Commercial Fishing Licenses of  
9 corporations consisting of an individual fishing vessel ~~may~~ shall not assign such licenses.

10 ~~(f)(h)~~ It ~~is~~ shall be unlawful for a person to accept assignment of a Standard Commercial Fishing License for which  
11 they are ineligible.

12 ~~(g)~~ Assignments submitted without complete and required information shall be deemed not in effect and shall not be  
13 considered further until resubmitted with all required information.

14 ~~(h)(i)~~ It ~~is~~ shall be unlawful for any assignee of a Standard Commercial Fishing License not to return the assignment  
15 and the Standard Commercial Fishing License with any assigned endorsements to the ~~assignor of that license~~ licensee  
16 within five days of notice that the assignment has been terminated or a demand by the ~~assignor~~ licensee to return the  
17 license.

18  
19 *History Note:* Authority G.S. 113-134; 113-135; 113-168.1; 113-168.2; 113-168.5; 113-169.2; 113-182; 113-187;  
20 143B-289.52;  
21 *Eff. January 1, 1991;*  
22 *Temporary Amendment Eff. October 2, 1999; July 1, 1999;*  
23 *Amended Eff. August 1, 2000;*  
24 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03O .0111 is readopted with changes as published in 36:07 NCR 488 as follows:

2

3 **15A NCAC 03O .0111 SURRENDER OF LICENSES**

4 (a) It ~~is~~ shall be unlawful for any licensee to refuse to surrender to an agent of the Secretary all licenses, license  
5 receipts, endorsements, commercial fishing vessel registration or decals, and other forms and records relating to the  
6 license following service of notice of suspension or revocation of licenses in accordance with G.S. ~~113-171~~, 113-171  
7 and Rule .0114 of this Section.

8 (b) It ~~is~~ shall be unlawful for any person in custody or possession of any licenses, license receipt, endorsements,  
9 commercial fishing vessel registration or decals, and other documentation required to be surrendered to refuse to  
10 surrender same to an agent of the Secretary making such demand.

11 (c) A license issued by the Division in error shall be required to be surrendered immediately upon service of a notice  
12 by an agent of the Fisheries Director to surrender the license.

13

14 *History Note: Authority G.S. 113-134; 113-171; 113-182; 143B-289.52; S.L. 2010-145; 2010-145, s. 1;*

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

16 *Eff. August 1, 2000;*

17 *Amended Eff. October 1, 2012;*

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

1 15A NCAC 03O .0113 is readopted with changes as published in 36:07 NCR 488 as follows:

2

3 **15A NCAC 03O .0113 OCEAN FISHING PIER REPORTING REQUIREMENTS**

4 It ~~is shall be~~ unlawful for the responsible party of the Ocean Fishing Pier License to fail to provide to the Division of  
5 Marine Fisheries by the 10th of each month a daily count of anglers fishing from the licensed pier from the previous  
6 month, including a daily count of zero for days when anglers did not fish. The information shall be submitted on a  
7 paper form provided by the Division or via electronic mail to the electronic mail address provided at the time of license  
8 ~~application-issuance.~~

9

10 *History Note: Authority G.S. 113-134; 113-169.4; **113-170.3**; 113-174.1; 113-182; 143B-289.52;*

11 *Eff. April 1, 2011;*

12 *Amended Eff. May 1, 2015;*

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

1 15A NCAC 03O .0114 is readopted with changes as published in 36:07 NCR 488-489 as follows:

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

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

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

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

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

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

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

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

27 (d) After the Fisheries Director determines that a conviction requires a suspension or revocation of the licenses of a  
28 licensee, the Fisheries Director shall cause the licensee to be served with written notice of suspension or revocation.  
29 If the licensee is not an individual, the written notice shall be served upon any responsible individual affiliated with  
30 the corporation, partnership, or association. The notice of suspension or revocation shall be served by an inspector or  
31 other agent of the Department or by certified mail, shall state the ground upon which it is based, and shall take effect  
32 immediately upon service. The agent of the Fisheries Director making service shall collect all license certificates and  
33 plates and other forms or records relating to the license as directed by the Fisheries Director. Upon service of a notice  
34 of suspension or revocation of a license, it shall be unlawful to fail to surrender any license so suspended or revoked.

35 (e) If a license has been suspended, the former licensee shall not be eligible to apply for reissuance of license or for  
36 any additional license authorized in Article 14A, Article 14B, or Article 25A of Chapter 113 during the suspension

1 period. Licenses shall be returned to the licensee by the Fisheries Director or the Director's agents at the end of a  
2 period of suspension.

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

12 (g) ~~A licensee shall not willfully~~ It shall be unlawful to evade the service prescribed in this Rule.

13

14 *History Note:* Authority G.S. 113-134; 113-168.1; 113-171; 113-182; 143B-289.52; S.L. ~~2010-145; 2010-145, s.~~

15

I:

16

*Eff. October 1, 2012;*

17

*Amended Eff. May 1, 2017;*

18

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

1 15A NCAC 03O .0206 is readopted with changes as published in 36:07 NCR 490 as follows:

2  
3 **15A NCAC 03O .0206 ~~LEASE PROTEST SHELLFISH LEASE APPLICATION: REQUEST FOR~~**  
4 **REVIEW**

5 ~~(a) Should any person object to the granting of any initial or renewal lease, he has the right to protest its issuance~~  
6 ~~prior to the granting of the lease by the Secretary. The protestant may file a sworn statement of protest with the~~  
7 ~~Division stating the grounds for protest. The Secretary shall notify both the prospective lessee and the protestant upon~~  
8 ~~receipt of a protest, and shall conduct such investigation as he deems necessary, and shall notify both parties of the~~  
9 ~~outcome of his investigation. Protestants or applicants receiving an adverse recommendation on the lease application~~  
10 ~~from the Secretary may appeal this decision as outlined in G.S. 113-202(g).~~

11 ~~(b)(a) Any member of the public shall be allowed an opportunity to comment on any shellfish lease application during~~  
12 ~~the public comment period and subsequent public hearing at which the lease application is being considered by the~~  
13 ~~Secretary. Secretary as set forth in G.S. 113-202.~~

14 ~~(b) Procedures for how an applicant or a person other than the applicant who is aggrieved may proceed with a~~  
15 ~~contested case based on dissatisfaction of the Secretary's decision on a shellfish lease application are provided in G.S.~~  
16 ~~113-202(g). Additionally, a person other than the applicant who is aggrieved may submit a request for a determination~~  
17 ~~of the appropriateness of a contested case hearing. The request and any supporting documentation for the basis of the~~  
18 ~~aggrieved person seeking to commence a contested case shall be submitted within 30 days after the disputed decision~~  
19 ~~is made to the Shellfish Cultivation Lease Review Committee and addressed to the Marine Fisheries Commission~~  
20 ~~Office, Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557. The request~~  
21 ~~shall be submitted on a form provided by the Division.~~

22 ~~(c) The Shellfish Lease Review Committee shall notify the aggrieved person of the date of the public meeting for the~~  
23 ~~Committee to consider the request no later than seven calendar days before the date of the public meeting.~~

24  
25 *History Note:* Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-289.52; **143B-289.57**;

26 *Eff. January 1, 1991;*

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

28 *Readopted Eff. May 1, 2022.*

**SHELLFISH CULTIVATION LEASE REVIEW COMMITTEE  
THIRD PARTY APPEALS FORM**

PETITIONER'S NAME:

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COUNTY AND GENERAL LOCATION OF THE SHELLFISH LEASE(S) (i.e., WATERBODY):

---

PROPOSED SHELLFISH LEASE NUMBER(S) AND APPLICANT(S) NAME:

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*Please complete the blanks above to make clear the shellfish lease(s) you are challenging.*

PLEASE TAKE NOTE that the undersigned Petitioner, a person other than the applicant who is aggrieved by the decision of the Secretary of the Department of Environmental Quality (DEQ) and delegated to the Division of Marine Fisheries' (DMF) Director, to grant a shellfish lease, hereby requests permission from the Marine Fisheries Commission's (MFC) Shellfish Cultivation Lease Review Committee (SCLRC) to file an appeal to determine the appropriateness of a contested case hearing pursuant to N.C.G.S. § 113-202(g). Requests are reviewed and a determination is made by the SCLRC whether a contested case hearing is appropriate. If the SCLRC determines that a contested case hearing is appropriate, the Petitioner must file a contested case petition with the Office of Administrative Hearings within thirty (30) days of receiving notice of the SCLRC's determination. A determination by the SCLRC that the Petitioner may not commence a contested case is a final agency decision which may be appealed to Superior Court as a Petition for Judicial Review under N.C.G.S. § 113-202(g) and Chapter 150B in accordance with N.C.G.S. § 113-202(g).

For this application to be complete, the Petitioner must address each of the three factors from N.C.G.S. § 113-202(g) listed below. The SCLRC's decision to grant a hearing will be based on whether the Petitioner: *(Please answer these questions on a separate page or e-document and submit with this form.)*

- (1) Has alleged that the decision is contrary to a statute or rule;** *(Please cite the relevant statute or regulation allegedly violated by the shellfish lease decision.)*
- (2) Is directly affected by the decision; and** *(Please describe how you are directly affected by the shellfish lease decision. Persons directly affected by a decision may include persons who can demonstrate a history of substantial use of public resources in the area directly affected by the shellfish lease.)*
- (3) Has alleged facts or made legal arguments that demonstrate that the request for the hearing is not frivolous.** *(Please summarize the evidence and arguments you would present at a hearing in support of your appeal explaining why the shellfish lease was improperly approved.)*

*The MFC notes that there are some opinions of the State Bar which indicate that non-attorneys or attorneys not licensed to practice law in the state may not represent other people or corporate bodies at quasi-judicial proceedings such as this Third Party Hearing Request before the Review Committee. These opinions note that the practice of non-lawyers representing*



*others in quasi-judicial proceedings through written argument may be considered the practice of law. Before you proceed with this hearing request, you may wish to seek the advice of counsel before having a non-lawyer represent your interests through preparation of this Petition.*

**DELIVERY OF THIS HEARING REQUEST**

The law requires that this request must be **received by (not postmarked by)** the SCLRC, in care of the DMF, within thirty (30) days of the date of the disputed shellfish lease decision in accordance with N.C.G.S. § 113-202(g). Failure to do so constitutes waiver of the right to request a hearing. A copy of this request must also be sent to the Attorney General's Office, Environmental Division.

Contact Information for DMF Office:

**By U.S. Mail:**

NC Division of Marine Fisheries  
MFC Office  
PO Box 769  
Morehead City, NC 28557

**By express mail or hand delivery:**

NC Division of Marine Fisheries  
MFC Office  
3441 Arendell Street  
Morehead City, NC 28557

**By Email:**

MFCComm@ncdenr.gov

Contact Information for Attorney General's Office:

**By U.S. Mail:**

Environmental Division  
MFC Counsel  
9001 Mail Service Center  
Raleigh, NC 27699-9001

**By express mail or hand delivery:**

Environmental Division  
MFC Counsel  
114 W. Edenton Street  
Raleigh, NC 27603

**Based on the attached responses to the above factors, the undersigned hereby requests a third party appeal determination.**

\_\_\_\_\_  
Signature of Petitioner or Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Petitioner or Attorney

\_\_\_\_\_  
Email address of Petitioner or Attorney

\_\_\_\_\_  
Mailing Address of Petitioner or Attorney

(\_\_\_\_\_)\_\_\_\_\_  
Telephone number of Petitioner or Attorney

\_\_\_\_\_  
City State Zip

1 15A NCAC 03O .0207 is readopted with changes as published in 36:07 NCR 490 as follows:

2  
3 **15A NCAC 03O .0207 SHELLFISH LEASE AND FRANCHISE PRODUCTION REPORTS**

4 (a) ~~The owners of shellfish leases and franchises. The holder or holders of a shellfish lease or franchise shall provide~~  
5 an annual production reports report to the Division of Marine Fisheries by March 31 of each year showing the amounts  
6 of material ~~planted~~ planted, purchased, and harvested harvested; where and when the material was obtained; and when  
7 the material was planted ~~in connection with management for commercial production. Reporting forms will be~~  
8 ~~provided to owners of shellfish bottom leases and recognized franchises during the period that annual notices of rent~~  
9 ~~due are provided to owners of shellfish bottom leases in accordance with G.S. 113-202(j). Reporting forms will be~~  
10 ~~provided to owners of water column leases prior to each annual anniversary date in accordance with Rules .0201 and~~  
11 ~~.0202 of this Section. The report shall include supporting documentation with evidence of purchased seed in~~  
12 accordance with Rule .0201 of this Section.

13 (b) ~~The Division shall provide reporting forms annually to each shellfish lease or franchise holder to be used for the~~  
14 annual production report.

15 (b)(c) ~~Failure to furnish by the holder or holders of the shellfish lease or franchise to submit the required annual~~  
16 production report, correct and in detail requested, report with all required fields completed, or filing an incomplete  
17 report or ~~a report containing false information, can constitute information constitutes grounds for~~  
18 termination. termination as set forth in Rule .0208 of this Section.

19  
20 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-206;*  
21 *143B-289.52;*  
22 *Eff. January 1, 1991;*  
23 *Amended Eff. September 1, 1991;*  
24 *Readopted Eff. May 1, 2022.*



ROY COOPER  
Governor

ELIZABETH S. BISER  
Secretary

KATHY B. RAWLS  
Director

## 2022 Shellfish Lease/Franchise Planting Report

<b>Lease Holder:</b>		<b>Bottom Lease #: 1930916</b>	
		Water Column #: 1930924	
		<b>Acres: 4.22</b>	
<b>Did Your Contact Information Change?</b>	Yes      No	<b>If Yes, Provide Updated Information:</b>	

Please report your planting efforts below. **If you have a bottom and a water column lease, DO NOT report duplicate planting efforts.** For example: You have a receipt showing purchase of 50K seed. **Do not report 50K on both bottom and water column.** Report which lease you planted it on; splitting is acceptable, duplication is not. If you planted cultch material, please enter where and when the cultch material was obtained, and when planted below. **Return this signed form and copies of all purchase receipts or paid invoices for cultch and seed shellfish to the DMF address below and make a copy for your records.**

**Please enter all seed quantities in bushels.**

**300 oysters = 1 bushel**

**400 clams = 1 bushel**

	Clams (bushels)	Oysters (bushels)
Seed Sold:		

### PLANTING REPORT FOR YEAR 2021:

Type of Material Planted (shell cultch, rock cultch or seed- <b>do not include relay</b> )	Amount Planted (convert seed to bushels)	Date Planted	Source of Material (explain lack of receipt if applicable)

**If you received Permit(s) to Relay from a Polluted Area or a Seed Oyster Management Area, and did not return a transplant report, please return them as directed in the original instructions. The transplant reports serve as documentation for planting effort and you will receive credit for the amount you relayed to your lease or franchise. If you received the permit(s), but did not participate in any relay, enter 'DID NOT RELAY' in the remarks section.**

**NOTE:** If you received a 2021 relay permit and do not provide a Transplant Report, you will not be eligible to receive a 2022 relay permit.

Relay from Polluted Area 2021 Permit No. \_\_\_\_\_

Relay from Seed Oyster Management Area 2021 Permit No. \_\_\_\_\_

**REMARKS:**

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**I certify that the information I entered on this form is a true and accurate account of lease use for the previous year and is supported by enclosed receipts and records of plantings, if applicable.**

\_\_\_\_\_  
**Lease Holder Signature**

\_\_\_\_\_  
**Date**

Please return this form to:

**NORTH CAROLINA DIVISION OF MARINE FISHERIES  
Habitat and Enhancement Section - Leases  
Post Office Box 769  
Morehead City, NC 28557-0769**



ROY COOPER  
Governor

ELIZABETH S. BISER  
Secretary

KATHY B. RAWLS  
Director

## 2022 Shellfish Lease/Franchise Planting Report

<b>Lease Holder:</b>		<b>Franchise #: 45-C-97</b>	
		Water Column #:	
		<b>Acres: 26.00</b>	
<b>Did Your Contact Information Change?</b>	Yes      No	<b>If Yes, Provide Updated Information:</b>	

Please report your planting efforts below. **If you have a bottom and a water column lease, DO NOT report duplicate planting efforts.** For example: You have a receipt showing purchase of 50K seed. **Do not report 50K on both bottom and water column.** Report which lease you planted it on; splitting is acceptable, duplication is not. If you planted cultch material, please enter where and when the cultch material was obtained, and when planted below. **Return this signed form and copies of all purchase receipts or paid invoices for cultch and seed shellfish to the DMF address below and make a copy for your records.**

**Please enter all seed quantities in bushels.**

**300 oysters = 1 bushel**

**400 clams = 1 bushel**

	Clams (bushels)	Oysters (bushels)
Seed Sold:		

### PLANTING REPORT FOR YEAR 2021:

Type of Material Planted (shell cultch, rock cultch or seed- <b>do not include relay</b> )	Amount Planted (convert seed to bushels)	Date Planted	Source of Material (explain lack of receipt if applicable)

**If you received Permit(s) to Relay from a Polluted Area or a Seed Oyster Management Area, and did not** return a transplant report, please return them as directed in the original instructions. The transplant reports serve as documentation for planting effort and you will receive credit for the amount you relayed to your lease or franchise. If you received the permit(s), but **did not** participate in any relay, enter **'DID NOT RELAY'** in the remarks section.

**NOTE:** If you received a 2021 relay permit and do not provide a Transplant Report, you will not be eligible to receive a 2022 relay permit.

Relay from Polluted Area 2021 Permit No. \_\_\_\_\_

Relay from Seed Oyster Management Area 2021 Permit No. \_\_\_\_\_

**REMARKS:**

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**I certify that the information I entered on this form is a true and accurate account of lease use for the previous year and is supported by enclosed receipts and records of plantings, if applicable.**

\_\_\_\_\_  
**Lease Holder Signature**

\_\_\_\_\_  
**Date**

Please return this form to:

**NORTH CAROLINA DIVISION OF MARINE FISHERIES  
Habitat and Enhancement Section - Leases  
Post Office Box 769  
Morehead City, NC 28557-0769**



ROY COOPER  
Governor

ELIZABETH S. BISER  
Secretary

KATHY B. RAWLS  
Director

## 2022 Shellfish Lease/Franchise Planting Report

<b>Lease Holder:</b>		<b>Bottom Lease #: 1951300</b>	
		Water Column #:	
		<b>Acres: 2.57</b>	
<b>Did Your Contact Information Change?</b>	Yes      No	<b>If Yes, Provide Updated Information:</b>	

Please report your planting efforts below. **If you have a bottom and a water column lease, DO NOT report duplicate planting efforts.** For example: You have a receipt showing purchase of 50K seed. **Do not report 50K on both bottom and water column.** Report which lease you planted it on; splitting is acceptable, duplication is not. If you planted cultch material, please enter where and when the cultch material was obtained, and when planted below. **Return this signed form and copies of all purchase receipts or paid invoices for cultch and seed shellfish to the DMF address below and make a copy for your records.**

**Please enter all seed quantities in bushels.**

**300 oysters = 1 bushel**

**400 clams = 1 bushel**

	Clams (bushels)	Oysters (bushels)
Seed Sold:		

### PLANTING REPORT FOR YEAR 2021:

Type of Material Planted (shell cultch, rock cultch or seed- <b>do not include relay</b> )	Amount Planted (convert seed to bushels)	Date Planted	Source of Material (explain lack of receipt if applicable)

**If you received Permit(s) to Relay from a Polluted Area or a Seed Oyster Management Area, and did not return a transplant report, please return them as directed in the original instructions. The transplant reports serve as documentation for planting effort and you will receive credit for the amount you relayed to your lease or franchise. If you received the permit(s), but did not participate in any relay, enter 'DID NOT RELAY' in the remarks section.**

**NOTE:** If you received a 2021 relay permit and do not provide a Transplant Report, you will not be eligible to receive a 2022 relay permit.

Relay from Polluted Area 2021 Permit No. \_\_\_\_\_

Relay from Seed Oyster Management Area 2021 Permit No. \_\_\_\_\_

**REMARKS:**

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**I certify that the information I entered on this form is a true and accurate account of lease use for the previous year and is supported by enclosed receipts and records of plantings, if applicable.**

\_\_\_\_\_  
**Lease Holder Signature**

\_\_\_\_\_  
**Date**

Please return this form to:

**NORTH CAROLINA DIVISION OF MARINE FISHERIES  
Habitat and Enhancement Section - Leases  
Post Office Box 769  
Morehead City, NC 28557-0769**





ROY COOPER  
Governor

ELIZABETH S. BISER  
Secretary

KATHY B. RAWLS  
Director

## 2022 Shellfish Lease/Franchise Planting Report

Lease Holder		Water Column #: 1934744	
		Bottom/Franchise Lease #: 8818	
		Acres: 1.25	
Did Your Contact Information Change?	Yes	No	If Yes, Provide Updated Information:

Please report your planting efforts below. **If you have a bottom and a water column lease, DO NOT report duplicate planting efforts.** For example: You have a receipt showing purchase of 50K seed. **Do not report 50K on both bottom and water column.** Report which lease you planted it on; splitting is acceptable, duplication is not. If you planted cultch material, please enter where and when the cultch material was obtained, and when planted below. **Return this signed form and copies of all purchase receipts or paid invoices for cultch and seed shellfish to the DMF address below and make a copy for your records.**

**Please enter all seed quantities in bushels.**

**300 oysters = 1 bushel**

**400 clams = 1 bushel**

	Clams (bushels)	Oysters (bushels)
Seed Sold:		

### PLANTING REPORT FOR YEAR 2021:

Type of Material Planted (shell cultch, rock cultch or seed- <b>do not include relay</b> )	Amount Planted (convert seed to bushels)	Date Planted	Source of Material (explain lack of receipt if applicable)

**If you received Permit(s) to Relay from a Polluted Area or a Seed Oyster Management Area, and did not return a transplant report, please return them as directed in the original instructions. The transplant reports serve as documentation for planting effort and you will receive credit for the amount you relayed to your lease or franchise. If you received the permit(s), but did not participate in any relay, enter 'DID NOT RELAY' in the remarks section.**

**NOTE:** If you received a 2021 relay permit and do not provide a Transplant Report, you will not be eligible to receive a 2022 relay permit.

Relay from Polluted Area 2021 Permit No. \_\_\_\_\_

Relay from Seed Oyster Management Area 2021 Permit No. \_\_\_\_\_

**REMARKS:**

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**I certify that the information I entered on this form is a true and accurate account of lease use for the previous year and is supported by enclosed receipts and records of plantings, if applicable.**

\_\_\_\_\_  
**Lease Holder Signature**

\_\_\_\_\_  
**Date**

Please return this form to:

**NORTH CAROLINA DIVISION OF MARINE FISHERIES  
Habitat and Enhancement Section - Leases  
Post Office Box 769  
Morehead City, NC 28557-0769**

1 15A NCAC 03O .0209 is readopted with changes as published in 36:07 NCR 491-492 as follows:

2  
3 **15A NCAC 03O .0209 ~~TRANSFER OF INTEREST~~ ASSIGNMENT OF SHELLFISH LEASES AND**  
4 **FRANCHISES**

5 (a) For the purpose of effecting assignments of shellfish leases or franchises in accordance with this Rule:

6 (1) "transfer" shall be defined as any permanent assignment of a shellfish lease or franchise, in whole  
7 or in part.

8 (2) "sublease" shall be defined as any temporary assignment of a shellfish lease or franchise, in whole  
9 or in part.

10 ~~(a) Within 30 days after transfer of ownership of all or any portion of interest in a shellfish lease or franchise, the new~~  
11 ~~owner shall notify the Division, and provide the number of the lease or franchise and the county in which it is located.~~  
12 ~~Such notification shall be accompanied by a management plan prepared by the new owner in accordance with 15A~~  
13 ~~NCAC 03O .0202(b).~~

14 (b) No transfer or sublease of a shellfish lease or franchise, in whole or in part, shall be valid until notice is provided  
15 to the Division of Marine Fisheries as provided in Article 16 of Chapter 113 of the North Carolina General Statutes  
16 and the Division provides written consent in order to ensure that a transferee or sub-lessee meets the requirements of  
17 the North Carolina General Statutes and Marine Fisheries Commission Rules. A transfer may only be made by the use  
18 of a form provided and approved by the Division.

19 (c) Notice to transfer or sublease a shellfish lease or franchise shall ~~include the shellfish lease or franchise number,~~  
20 ~~county in which the lease or franchise is located, and the name of the transferee or sub-lessee.~~ include:

21 (1) shellfish lease or franchise number;

22 (2) date of transfer or sublease;

23 (3) name and city of shellfish lease or franchise holder;

24 (4) name and address of transferee or sub-lessee;

25 (5) waterbody and county of shellfish lease or franchise being transferred or subleased;

26 (6) area description and total acres of shellfish lease or franchise or portion of shellfish lease or franchise  
27 being transferred or subleased; and

28 (7) end date for a sublease.

29 The transferee or sub-lessee of a shellfish lease shall provide to the Division the required Shellfish Lease Management  
30 Plan and proof of completion of training requirements in accordance with Rule .0202 of this Section.

31 ~~(b)(d) If the new owner obtains a~~ The smallest portion of an existing shellfish bottom lease or franchise, it shall not  
32 contain less than franchise to be transferred or subleased shall be one-half acre acre, and the required notification to  
33 the Division shall be accompanied by a survey prepared in accordance with the standards in 15A NCAC 03O .0203(d).

34 ~~(e) Within six months after transfer of ownership, the new owner shall complete shellfish cultivation lease training~~  
35 ~~as specified in 15A NCAC 03O .0202(d).~~

36 (e) A shellfish lease or franchise shall not be transferred or subleased to a nonresident of North Carolina in accordance  
37 with G.S. 113-202, G.S. 113-202.1, G.S. 113-202.2, and G.S. 113-206.

1 ~~(d)(f) Water column leases are not transferrable except when the Secretary approves such transfer. A shellfish water~~  
2 ~~column lease shall only be transferred~~ in accordance with G.S. 113-202.1(f) and G.S. 113-202.2(f).

3 ~~(e) In the event the transferee involved in a lease is a nonresident, the Secretary must initiate termination proceedings.~~

4

5 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-205; 113-206;*  
6 *143B-289.52;*

7 *Eff. January 1, 1991;*

8 *Amended Eff. April 1, 2011; March 1, 1994; September 1, 1991;*

9 *Readopted Eff. May 1, 2022.*

**TRANSFER OF SHELLFISH BOTTOM LEASE No. \_\_\_ and  
SHELLFISH WATER COLUMN LEASE AMENDMENT No. \_\_\_**

STATE OF NORTH CAROLINA

COUNTY OF CARTERET

This Shellfish Lease Transfer ("Transfer") of Shellfish Bottom Lease No. \_\_\_ ("Lease") and Shellfish Water Column Lease Amendment No. \_\_\_ ("Amendment"), made this \_\_\_\_\_ day of \_\_\_\_\_, by and between, First and Last Name and/or Corporation Name (Agent), party of the first part, to First and Last Name party of the second part of address, a North Carolina resident for the previous six months.

WITNESSETH: The receipt of which is hereby acknowledged, the party of the first part, subject to the conditions hereinafter made, hereby sells, transfers and assigns unto the party of the second part their successors and assigns, all the right, title and interest of the party of the first part in and to the issues, profits and specifically the oysters and/or clams and rights and benefits of the following described shellfish bottom and water column lease(s): a x-acre shellfish bottom lease and superjacent water column lease located in a portion of Waterbody, County, N.C., which is more particularly described as follows:

Within the area described by a line beginning at a point Latitude/Longitude; running southerly to a point Latitude/Longitude; running westerly to a point Latitude/Longitude; running northerly to a point Latitude/Longitude; running northeasterly to a point of beginning as not to exceed a total of x acres.

This Transfer is made subject to all the terms and conditions of the current shellfish lease contract agreement(s) executed between First and Last Name and/or Corporation Name (Agent) of City and the Secretary of the Department of Environmental Quality through their designee, the Director of the Division of Marine Fisheries, in the permanent assignment of the Lease and Amendment, dated from the x<sup>th</sup> day of Month, Year and expiring on the 30<sup>th</sup> day of Month Year. The terms and conditions of the current shellfish lease contract agreement(s) are enclosed.

Signature of party of the first part: \_\_\_\_\_  
First and Last Name and/or Corporation Name (Agent)

STATE OF NORTH CAROLINA

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, Notary Public, do hereby certify that First and Last Name, party of the first part, personally appeared before me this day and acknowledged to me that she voluntarily signed the foregoing document for the purpose stated therein, and in the capacity indicated.

WITNESS my hand and seal, this the \_\_\_\_\_ day of \_\_\_\_\_, Year.

\_\_\_\_\_  
NOTARY PUBLIC SIGNATURE

Print \_\_\_\_\_

My Commission expires: \_\_\_\_\_

(Seal)

-----  
STATE OF NORTH CAROLINA

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, Notary Public, do hereby certify that First and Last Name, party of the second part, personally appeared before me this day and acknowledged to me that she voluntarily signed the foregoing document for the purpose stated therein, and in the capacity indicated.

WITNESS my hand and seal, this the \_\_\_\_\_ day of \_\_\_\_\_, Year.

\_\_\_\_\_  
NOTARY PUBLIC SIGNATURE

Print \_\_\_\_\_

My Commission expires: \_\_\_\_\_

(Seal)

## SHELLFISH BOTTOM LEASE CONTRACT CONDITIONS

TO HAVE AND TO HOLD the above described Leased Premises, and all privileges and appurtenances thereto appertaining, to the said LESSEE and their heirs, successors and assigns, subject to and in accordance with the following terms and conditions:

1. This Lease shall commence upon its issuance by the LESSOR and shall expire at noon on the first day of July following the tenth anniversary of said commencement date (the "Term").
2. During the Term, rent shall be paid on an annual basis as follows:
  - a. Rent shall be ten dollars (\$10.00) per acre, per year and must be paid in advance prior to the first day of July each year.
  - b. All of the foregoing conditions relating to rent, including the amount of rent, are subject to change at the expiration of the Term, and new terms and conditions may be imposed on any renewal of this Lease in accordance with amendments to the North Carolina General Statutes or regulations under which this Lease is granted.
3. During the Term, the LESSEE shall meet productions requirements in accordance with the North Carolina General Statutes and rules under which this Lease is granted. Failure to meet such production requirements shall be grounds for termination of this Lease.
4. All of the provisions of Article 16 of Chapter 113 of the North Carolina General Statutes and the regulations of the Marine Fisheries Commission concerning leased bottoms are incorporated herein by reference and made a part of this Lease.
5. All laws, rules and regulations now in effect or hereinafter enacted which are applicable to public bottoms or the general public shall also be applicable to the above described Leased Premises and to the LESSEE, unless such laws, rules and regulations specifically exclude leased bottoms or unless the operation of such laws, rules and regulations are contrary to any of the express terms of this Lease.
6. Any permanent assignment of the Lease, in whole or in part, shall be considered a transfer. No transfer of this Lease or sublease of the Leased Premises, in whole or in part, shall be valid until notice is provided to the LESSOR as provided in Article 16 of Chapter 113 of the North Carolina General Statutes and the LESSOR provides written consent in order to ensure that a transferee or sub-lessee meets the requirements of the North Carolina General Statutes and the Marine Fisheries Commission. A transfer may only be made by the use of forms approved or furnished by the LESSOR. A sublease shall be any temporary assignment of the Leased Premises, in whole or in part. In no event shall this Lease or any interest in the Leased Premises be transferred or subleased to a nonresident of North Carolina. The purported transfer of this Lease or sublease of the Leased Premises to a nonresident of North Carolina shall result in the termination of this Lease. Subject to the foregoing, this Lease shall be binding upon and enforceable against, and shall inure to the benefit of, the LESSOR and LESSEE and their respective, legal representatives, successors and permitted assigns.
7. The LESSEE shall maintain compatibility with the lawful utilization by the public of other marine and estuarine resources including but not limited to navigation, fishing and recreation. The LESSEE may place permitted markers, devices or aquaculture equipment related to the cultivation and harvesting of shellfish on the Leased Premises; provided, that in no event shall any markers, devices or equipment permitted hereunder extend more than eighteen (18) inches above the Leased Premises.
8. This Lease is subject to all rights conferred in previous conveyances by LESSOR in and to the Leased Premises. That portion of the Leased Premises within the limits of the riparian zone of upland property owners (i.e. the area within those lines that extend perpendicular from the point of intersection of the mean high water mark on the shore of the riparian land to the channel or deep water in front of the riparian land) remains subject to the lawful exercise of those riparian rights, including the right to build piers or other structures for access to navigable waters within the boundaries of the Lease Premises. The LESSOR shall have the right to amend this Lease for the purpose of excepting from the description of the Leased Premises such portion thereof as may interfere with the lawful exercise of riparian rights by an upland owner. The following is the general process by which any such amendment shall be made:
  - a. Upon application of an upland owner whose riparian zone overlaps or lies adjacent to the Leased Premises, LESSOR may amend this Lease by excluding so much of the portion of the Leased Premises and superjacent water column as interferes with the upland owner's exercise of riparian rights.
  - b. Such application by an upland owner must show that they have obtained the necessary permits for the construction or placement of a pier(s) or other structure(s) within the Leased Premises or a portion thereof.
  - c. LESSOR shall allow not less than a six (6) month interval between notification of the issuance of the permit for the construction or placement of a pier(s) or other structure(s) and any amendment of this Lease. During said interval, upon notice from LESSOR, LESSEE shall remove all markers, devices, and aquaculture equipment placed within that portion of the Leased Premises or superjacent water column that is to be excepted from the operation of this Lease. Lessee may also remove from such excepted portion of the Lease Premises any shellfish, including cultch materials, which have resulted from the LESSEE'S cultivation activities.
  - d. Any amendment of this Lease as provided in this section shall except such portion of the Leased Premises and superjacent water column as interferes with the upland owner's construction or placement of a pier(s) or other structure(s), and in any event the amended Leased Premises shall be set back a minimum of one hundred (100)

feet from the approximate normal high water shoreline of the upland property. In such amendment, the annual rent due and production requirements hereunder shall be reduced by an amount proportional to the excepted portion of the Leased Premises.

9. In order to ensure there is no degradation of coastal wetland species due to prop-wash or other activities associated with the working of the Leased Premises, LESSEE shall maintain a twenty (20) foot buffer between any coastal wetlands and any part of any device or equipment LESSEE may place within the Leased Premises.
10. Within thirty (30) days of the expiration of the Term or the earlier termination of this Lease, LESSEE, in accordance with N.C.G.S. § 113-202(n), shall remove all markers, devices and aquaculture equipment from the Leased Premises. The LESSOR may, after ten (10) days' notice to the LESSEE, remove all markers, devices and aquaculture equipment from the Leased Premises at LESSEE'S expense, and recover from LESSEE the cost of such removal and any expense associated with the cleanup of Leased Premises.
11. LESSEE shall be in default under this Lease if it violates or otherwise fails to observe or perform any of its obligations herein or under Article 16 of Chapter 113 of the North Carolina General Statutes and the regulations of the Marine Fisheries Commission concerning leased bottoms incorporated herein by reference, and does not cure any such breach or default within thirty (30) days written notice from LESSOR; provided that if more time is required to complete such performance, LESSEE shall not be in default if LESSEE commences such performance within the thirty (30)-day period and thereafter diligently pursues its completion. In the event of LESSEE'S default and failure to cure as provided herein, LESSOR may terminate this Lease and reenter and take possession of the Leased Premises and pursue any other remedy now or hereafter available to LESSOR under North Carolina law.
12. LESSEE agrees to release, discharge, indemnify and hold harmless LESSOR from and against all loss, costs, expense, liability, claims, judgments, actions, penalties or fines whatsoever, in connection with or arising out of LESSEE'S violation or breach of any of the provisions of this Lease or any of the provisions of Article 16 of Chapter 113 of the North Carolina General Statutes and the regulations of the Marine Fisheries Commission concerning leased bottoms incorporated herein by reference.
13. This Lease shall be governed by, construed and enforced in accordance with the laws of the State of North Carolina, regardless of conflict of law principals, and court actions arising therefrom may be brought only within the courts of the State of North Carolina.
14. It is agreed that if a court of competent jurisdiction finds that this Lease was issued contrary to law, this Lease shall be terminated once all rights of appeal have been exhausted.
15. In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Lease shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. No provision of hereof shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party's having or being deemed to have prepared or imposed such provision.
16. Capitalized terms used in this Lease shall have the meanings ascribed to them at the point where first defined, irrespective of where their use occurs, with the same effect as if the definitions of such terms were set forth in full and at length every time such terms are used.
17. Service of any notice shall be made as required under N.C.G.S. § 113-202(m), but in any other event, notices, requests and other communications hereunder shall be deemed to have been fully given, by either party to the other, when made in writing and either deposited in the United States mail (sent certified, return receipt requested); personally delivered; or transmitted by overnight courier for next business day delivery to the addresses of LESSOR and LESSEE set forth below, or to such other addresses as the parties hereto may, from time to time, designate by written notice.
18. All of the special conditions listed by the LESSOR in the approval letter and application for the Lease are incorporated herein by reference and made a part of this Lease.
19. It is agreed that upon failure on the part of the LESSEE to observe or carry out any of the above provisions or any of the provisions incorporated by reference or any of the conditions imposed on the leased premises by the LESSOR, this Lease shall be terminated. The State of North Carolina, its' agencies and its' employees will not and do not assume any responsibility for any suit or claim that might arise from the leasing of the above described bottom.

## SHELLFISH WATER COLUMN LEASE AMENDMENT CONTRACT CONDITIONS

TO HAVE AND TO HOLD the above described Amendment Premises, and all privileges and appurtenances thereto appertaining, to the said LESSEE and their heirs, successors and assigns, subject to and in accordance with the following terms and conditions:

1. None of the terms and conditions contained in the Lease governing the lease of public bottom are altered or superseded by this Amendment except those which are contrary to use of the water column and are expressly set forth herein.
2. This Amendment shall commence upon its issuance by the LESSOR and shall expire at noon on the first day of July following the tenth anniversary of said commencement date (the "Term") or the remainder of the term of the Lease, whichever is shorter.
3. During the Term, rent for the Amendment shall be paid on an annual basis in addition to the rent required for the Lease as follows:
  - a. Rent shall be one hundred dollars (\$100.00) per acre, per year and must be paid in advance prior to the first day of July each year.
  - b. All of the foregoing conditions relating to rent, including the amount of rent, are subject to change at the expiration of the Term, and new terms and conditions may be imposed on any renewal of this Amendment in accordance with amendments to the North Carolina General Statutes or regulations under which this Amendment is granted.
4. During the Term, the LESSEE shall meet productions requirements in accordance with the North Carolina General Statutes and rules under which this Amendment is granted. Failure to meet such production requirements shall be grounds for termination of this Amendment.
5. All of the provisions of Article 16 of Chapter 113 of the North Carolina General Statutes and the regulations of the Marine Fisheries Commission concerning leased bottoms are incorporated herein by reference and made a part of this Amendment.
6. All laws, rules and regulations now in effect or hereinafter enacted which are applicable to public bottoms or the general public shall also be applicable to the above described Amendment Premises and to the LESSEE, unless such laws, rules and regulations specifically exclude leased bottoms or unless the operation of such laws, rules and regulations are contrary to any of the express terms of this Amendment.
7. Any permanent assignment of the Lease, in whole or in part, shall be considered a transfer. No transfer of this Amendment or sublease of the Amendment Premises, in whole or in part, shall be valid until notice is provided to the LESSOR as provided in Article 16 of Chapter 113 of the North Carolina General Statutes and the LESSOR provides written consent in order to ensure that a transferee or sub-lessee meets the requirements of the North Carolina General Statutes and the Marine Fisheries Commission. A transfer may only be made by the use of forms approved or furnished by the LESSOR. A sublease shall be any temporary assignment of the Amendment Premises, in whole or in part. In no event shall this Amendment or any interest in the Amendment Premises be transferred or subleased to a nonresident of North Carolina. The purported transfer of this Amendment or sublease of the Amendment Premises to a nonresident of North Carolina shall result in the termination of this Amendment. Subject to the foregoing, this Amendment shall be binding upon and enforceable against, and shall inure to the benefit of, the LESSOR and LESSEE and their respective, legal representatives, successors and permitted assigns.
8. The LESSEE shall maintain compatibility with the lawful utilization by the public of other marine and estuarine resources including but not limited to navigation, fishing and recreation. The LESSEE may place permitted markers, devices or aquaculture equipment related to the cultivation and harvesting of shellfish on the Amendment Premises.
9. This Amendment is subject to all rights conferred in previous conveyances by LESSOR in and to the Amendment Premises. That portion of the Amendment Premises within the limits of the riparian zone of upland property owners (i.e. the area within those lines that extend perpendicular from the point of intersection of the mean high water mark on the shore of the riparian land to the channel or deep water in front of the riparian land) remains subject to the lawful exercise of those riparian rights, including the right to build piers or other structures for access to navigable waters within the boundaries of the Amendment Premises. The LESSOR shall have the right to amend this Amendment for the purpose of excepting from the description of the Amendment Premises such portion thereof as may interfere with the lawful exercise of riparian rights by an upland owner. The following is the general process by which any such amendment shall be made:
  - e. Upon application of an upland owner whose riparian zone overlaps or lies adjacent to the Amendment Premises, LESSOR may amend this Amendment by excluding so much of the portion of the Amendment Premises and superjacent water column as interferes with the upland owner's exercise of riparian rights.
  - f. Such application by an upland owner must show that they have obtained the necessary permits for the construction or placement of a pier(s) or other structure(s) within the Amendment Premises or a portion thereof.
  - g. LESSOR shall allow not less than a six (6) month interval between notification of the issuance of the permit for the construction or placement of a pier(s) or other structure(s) and any amendment of this Amendment. During

Initial \_\_\_\_\_



said interval, upon notice from LESSOR, LESSEE shall remove all markers, devices, and aquaculture equipment placed within that portion of the Amendment Premises that is to be excepted from the operation of this Amendment. Lessee may also remove from such excepted portion of the Amendment Premises any shellfish, including cultch materials, which have resulted from the LESSEE'S cultivation activities.

- h. Any amendment of this Amendment as provided in this section shall except such portion of the Amendment Premises as interferes with the upland owner's construction or placement of a pier(s) or other structure(s), and in any event the amended Amendment Premises shall be set back a minimum of one hundred (100) feet from the approximate normal high water shoreline of the upland property. In such amendment, the annual rent due and production requirements hereunder shall be reduced by an amount proportional to the excepted portion of the Amendment Premises.
10. In order to ensure there is no degradation of coastal wetland species due to prop-wash or other activities associated with the working of the Amendment Premises, LESSEE shall maintain a twenty (20) foot buffer between any coastal wetlands and any part of any device or equipment LESSEE may place within the Amendment Premises.
11. Within thirty (30) days of the expiration of the Term or the earlier termination of this Amendment, LESSEE, in accordance with N.C.G.S. § 113-202(n), shall remove all markers, devices and aquaculture equipment from the Amendment Premises. The LESSOR may, after ten (10) days' notice to the LESSEE, remove all markers, devices and aquaculture equipment from the Amendment Premises at LESSEE'S expense, and recover from LESSEE the cost of such removal and any expense associated with the cleanup of Amendment Premises.
12. LESSEE shall be in default under this Amendment if it violates or otherwise fails to observe or perform any of its obligations herein or under Article 16 of Chapter 113 of the North Carolina General Statutes and the regulations of the Marine Fisheries Commission concerning leased bottoms incorporated herein by reference, and does not cure any such breach or default within thirty (30) days written notice from LESSOR; provided that if more time is required to complete such performance, LESSEE shall not be in default if LESSEE commences such performance within the thirty (30)-day period and thereafter diligently pursues its completion. In the event of LESSEE'S default and failure to cure as provided herein, LESSOR may terminate this Amendment and reenter and take possession of the Amendment Premises and pursue any other remedy now or hereafter available to LESSOR under North Carolina law.
13. LESSEE agrees to release, discharge, indemnify and hold harmless LESSOR from and against all loss, costs, expense, liability, claims, judgments, actions, penalties or fines whatsoever, in connection with or arising out of LESSEE'S violation or breach of any of the provisions of this Amendment or any of the provisions of Article 16 of Chapter 113 of the North Carolina General Statutes and the regulations of the Marine Fisheries Commission concerning leased bottoms incorporated herein by reference.
14. This Amendment shall be governed by, construed and enforced in accordance with the laws of the State of North Carolina, regardless of conflict of law principals, and court actions arising therefrom may be brought only within the courts of the State of North Carolina.
15. It is agreed that if a court of competent jurisdiction finds that this Amendment was issued contrary to law, this Amendment shall be terminated once all rights of appeal have been exhausted.
16. In case any one or more of the provisions contained in this Amendment shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Amendment shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. No provision of hereof shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party's having or being deemed to have prepared or imposed such provision.
17. Capitalized terms used in this Amendment shall have the meanings ascribed to them at the point where first defined, irrespective of where their use occurs, with the same effect as if the definitions of such terms were set forth in full and at length every time such terms are used.
18. Service of any notice shall be made as required under N.C.G.S. § 113-202(m), but in any other event, notices, requests and other communications hereunder shall be deemed to have been fully given, by either party to the other, when made in writing and either deposited in the United States mail (sent certified, return receipt requested); personally delivered; or transmitted by overnight courier for next business day delivery to the addresses of LESSOR and LESSEE set forth below, or to such other addresses as the parties hereto may, from time to time, designate by written notice.
19. All of the special conditions listed by the LESSOR in the approval letter and application for the Amendment are incorporated herein by reference and made a part of this Amendment.
20. It is agreed that upon failure on the part of the LESSEE to observe or carry out any of the above provisions or any of the provisions incorporated by reference or any of the conditions imposed on the Amendment Premises by the LESSOR, this Amendment shall be terminated. The State of North Carolina, its' agencies and its' employees will not and do not assume any responsibility for any suit or claim that might arise from the leasing of the above described water column superjacent to the leased bottom.

1 15A NCAC 03O .0210 is readopted with changes as published in 36:07 NCR 492 as follows:

2  
3 **15A NCAC 03O .0210 STANDARDS AND REQUIREMENTS FOR SHELLFISH-FRANCHISES**

4 ~~(a) The resolution of claims filed under G.S. 113-205 is governed by standards in Departmental Rules 15A NCAC~~  
5 ~~1G .0200 and .0300. Following receipt of notification that a claim has a valid chain of title, the owner shall provide~~  
6 ~~to the Division within 90 days a survey prepared in accordance with the standards in 15A NCAC 03O .0203(d). Failure~~  
7 ~~to provide the required survey within the time period specified will result in denial of the claim.~~

8 ~~(b)(a) Acceptable management plans, Shellfish Management Plans, prepared in accordance with the standards in 15A~~  
9 ~~NCAC 03O .0202(b), Rule .0202 of this Section, shall be provided to the Division of Marine Fisheries within 30 days~~  
10 ~~following formal recognition of a valid chain of title and at ten-year intervals thereafter.~~

11 ~~(e)(b) The survey and management plan Shellfish Management Plan requirements in Paragraphs (a) and (b) Paragraph~~  
12 ~~(a) of this Rule, Rule and all other requirements and conditions of this Section affecting management of franchises,~~  
13 ~~franchises shall apply to all valid shellfish franchises recognized prior to September 1, 1989 franchises.~~

14 ~~(d)(c) Commercial production requirements for franchises shall be identical to that required for shellfish bottom leases~~  
15 ~~in 15A NCAC 03O .0201(e) accordance with Rules .0201 and .0207 of this Section averaged over the most recent~~  
16 ~~three-year period after January 1 following the second anniversary of the dates of recognition of claims as valid~~  
17 ~~shellfish franchises and continuing throughout the term of management plans Shellfish Management Plans required~~  
18 ~~in Paragraph (b)(a) of this Rule. Annual reporting of commercial production shall be submitted upon receipt of forms~~  
19 ~~provided by the Division for that purpose.~~

20  
21 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.2; 113-205; 113-206; 143B-289.52;*  
22 *Eff. January 1, 1991;*  
23 *Amended Eff. October 1, 2008; September 1, 1991;*  
24 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03O .0301 is readopted with changes as published in 36:07 NCR 492 as follows:

2

3

**SECTION .0300 – RECREATIONAL COMMERCIAL GEAR LICENSES**

4

**15A NCAC 03O .0301 ELIGIBILITY FOR RECREATIONAL COMMERCIAL GEAR LICENSES**

6 (a) It is ~~shall be~~ unlawful for any individual to hold more than one Recreational Commercial Gear License.

7 (b) Recreational Commercial Gear Licenses shall only be issued to individuals.

8

9 *History Note: Filed as a Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent*  
10 *rule becomes effective, whichever is sooner;*

11 *Authority G.S. 113-134; ~~113-170.4~~; 113-173; 113-182; ~~113-221~~; 143B-289.52;*

12 *Eff. February 1, 1995;*

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

14 *Amended Eff. August 1, 2000;*

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

1 15A NCAC 03O .0303 is readopted with changes as published in 36:07 NCR 493-494 as follows:

2  
3 **15A NCAC 03O .0303 POSSESSION LIMITS FOR RECREATIONAL COMMERCIAL GEAR LICENSE**  
4 **POSSESSION LIMITS LICENSSES**

5 (a) It ~~is~~ shall be unlawful to possess more than a single recreational possession limit when only one ~~person aboard~~  
6 individual on board a vessel possesses a valid Recreational Commercial Gear ~~License~~ License, regardless of the  
7 number of Recreational Commercial Gear Licenses an individual holds, and recreational commercial fishing  
8 equipment as ~~defined~~ described in 15A NCAC 03O Rule .0302(a) of this Section is used, regardless of the number of  
9 ~~persons~~ individuals on board a vessel.

10 (b) It ~~is~~ shall be unlawful to possess individual recreational possession limits in excess of the number of individuals  
11 ~~aboard~~ on board a vessel holding a valid Recreational Commercial Gear ~~Licenses~~ License except as provided in  
12 Paragraph (f) of this Rule.

13 (c) It ~~is~~ shall be unlawful for any ~~person~~ individual who holds both a Recreational Commercial Gear License and a  
14 Standard or Retired Standard Commercial Fishing License and who is in possession of identified recreational  
15 commercial fishing equipment as ~~defined~~ described in 15A NCAC 03O .0302(a), Rule .0302(a) of this Section to  
16 exceed the single recreational possession limit.

17 (d) It ~~is~~ shall be unlawful for ~~persons aboard~~ individuals on board a vessel collectively holding only one Recreational  
18 Commercial Gear License and any Standard Commercial Fishing License or Retired Standard Commercial Fishing  
19 License and who are in possession of any identified recreational commercial fishing equipment as ~~defined~~ described  
20 in 15A NCAC 03O .0302(a), Rule .0302(a) of this Section to exceed ~~one~~ the single recreational possession limit.

21 (e) It ~~is~~ shall be unlawful to possess more than 48 quarts, heads on, or 30 quarts, heads off, of shrimp when only one  
22 ~~person aboard~~ individual on board a vessel possesses a valid Recreational Commercial Gear ~~License~~ License,  
23 regardless of the number of Recreational Commercial Gear Licenses an individual holds, and recreational commercial  
24 fishing equipment as ~~defined~~ described in 15A NCAC 03O Rule .0302(a) of this Section is used.

25 (f) It ~~is~~ shall be unlawful to possess more than 96 quarts, heads ~~on on~~, or 60 quarts, heads off, of shrimp if more than  
26 one ~~person aboard~~ individual on board a vessel possesses a valid Recreational Commercial Gear License and  
27 recreational commercial fishing equipment as ~~defined~~ described in 15A NCAC 03O Rule .0302(a) of this Section is  
28 used.

29  
30 *History Note: Authority G.S. 113-134; 113-170.4; 113-173; 113-182; 143B-289.52;*  
31 *Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent rule*  
32 *becomes effective, whichever is sooner;*  
33 *Eff. February 1, 1995;*  
34 *Temporary Amendment Eff. June 7, 1998;*  
35 *Amended Eff. April 1, 1999;*  
36 *Temporary Amendment Eff. July 1, 1999;*  
37 *Amended Eff. July 1, 2006; August 1, 2000;*

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

1 15A NCAC 03O .0402 is readopted with changes as published in 36:07 NCR 494 as follows:

2  
3 **15A NCAC 03O .0402 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY APPLICATION**  
4 **PROCESS**

5 (a) Application forms for determination of eligibility for the Standard Commercial Fishing ~~Licenses~~ License  
6 Eligibility Pool ~~shall be~~ are available at all offices of the Division of Marine Fisheries and online at  
7 [https://deq.nc.gov/about/divisions/marine-fisheries/licenses-permits-and-leases/commercial-fishing-](https://deq.nc.gov/about/divisions/marine-fisheries/licenses-permits-and-leases/commercial-fishing-licenses/eligibility-pool)  
8 [licenses/eligibility-pool](https://deq.nc.gov/about/divisions/marine-fisheries/licenses-permits-and-leases/commercial-fishing-licenses/eligibility-pool) and ~~must~~ shall be submitted to ~~the Morehead City~~ any Office of the Division of Marine  
9 Fisheries ~~[Division, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557]~~ for processing.

10 (b) Only one application per individual for determination of eligibility for the Standard Commercial Fishing ~~Licenses~~  
11 License Eligibility Pool shall be accepted or may be pending at any one time. An applicant may have only one entry  
12 in the ~~eligibility pool~~ Standard Commercial Fishing License Eligibility Pool at any one time.

13 (c) Individuals who currently hold or are eligible to purchase a Standard or Retired Standard Commercial Fishing  
14 License shall not be eligible to apply for additional Standard Commercial Fishing Licenses through the Standard  
15 Commercial Fishing ~~Licenses~~ License Eligibility Pool.

16 (d) If an applicant has died or becomes ineligible and is subsequently selected from the ~~eligibility pool~~, Standard  
17 Commercial Fishing License Eligibility Pool, that license eligibility shall automatically revert to the ~~eligibility~~  
18 ~~pool~~ Eligibility Pool.

19 (e) Persons claiming retirement from commercial fishing or transferring their Standard Commercial Fishing License  
20 ~~may not apply for pool eligibility~~ shall not be eligible to apply for a Standard Commercial Fishing License through  
21 the Standard Commercial Fishing License Eligibility Pool for two years from the date of the last ~~transfer~~ transfer,  
22 except as provided in ~~15A NCAC 03O .0404(3)~~ Rule .0404(3) of this Section.

23 (f) Applicants shall notify the Division of Marine Fisheries within 30 days of a change of address.

24  
25 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52; S.L. 1998-225, s. 4:24;*  
26 *Temporary Adoption Eff. April 1, 1999;*  
27 *Eff. August 1, 2000;*  
28 *Amended Eff. October 1, 2008; February 1, 2008;*  
29 *Readopted Eff. May 1, 2022.*

1 15A NCAC 03O .0404 is readopted with changes as published in 36:07 NCR 494-495 as follows:

2  
3 **15A NCAC 03O .0404 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY CRITERIA**

4 In determining eligibility of an ~~application-applicant~~ for the Standard Commercial Fishing License Eligibility Pool,  
5 the Standard Commercial Fishing License Eligibility Board shall apply the following criteria:

6 (1) ~~Involvement in Commercial Fishing:~~involvement in commercial fishing:

- 7 (a) ~~Significant~~significant involvement in the commercial fishing industry for three of the last  
8 five years;~~or~~
- 9 (b) ~~Significant~~significant involvement in commercial fishing or in the commercial fishing  
10 industry prior to the last five years;~~or~~
- 11 (c) ~~In~~in the case of an applicant who is under 16 years of age, significant involvement in  
12 commercial fishing for two out of the last five years with a parent, legal guardian,  
13 ~~grandparent~~grandparent, or other adult; or
- 14 (d) ~~Significant~~significant involvement of the applicant's family in commercial fishing. For the  
15 purpose of this ~~Sub item, Sub-Item,~~ family shall include mother, father, ~~brother, sister,~~  
16 brothers, sisters, spouse, children, ~~grandparents~~grandparents, or legal guardian.

17 For the purposes of this Rule, ~~significant involvement means~~"significant involvement" shall mean  
18 persons or corporations who are engaged in the actual taking of fish for sale, from the waters of the  
19 State, or other states, jurisdictions, or federal waters, or any licensed dealer or the dealer's employees  
20 who ~~purchases~~purchase fish at the point of landing. Significant involvement does not include  
21 activities such as those who transport fish from the point of ~~landing,~~landing, those who sell or make  
22 commercial or recreational fishing ~~gear,~~gear, those who operate bait and tackle shops unless they  
23 are engaged in the actual taking of bait for ~~sale,~~sale, or those who work in fish markets or crab  
24 picking ~~operations~~operations;

25 (2) ~~Compliance with Applicable Laws and Regulations:~~compliance with applicable laws, regulations,  
26 and rules:

- 27 (a) ~~The~~the applicant shall not have any licenses, ~~endorsements or commercial fishing vessel~~  
28 ~~registrations~~endorsements, or Commercial Fishing Vessel Registrations issued by the  
29 Division of Marine Fisheries or the right to hold such them under suspension or revocation  
30 at the time of application or during the eligibility review;~~or~~
- 31 (b) ~~If~~if selected for the Standard Commercial Fishing License Eligibility Pool, the applicant  
32 shall become ineligible for the Standard Commercial Fishing License Eligibility Pool if  
33 any licenses, ~~endorsements or registrations~~endorsements, or Commercial Fishing Vessel  
34 Registrations or the right to hold such them issued by the Division ~~of Marine Fisheries~~ are  
35 suspended or revoked;~~or~~
- 36 (c) ~~Four~~four convictions within the last three years or the number of convictions ~~which~~that  
37 would cause suspension or revocation of ~~license, endorsement, or registration~~licenses,

1 endorsements, or Commercial Fishing Vessel Registrations as set forth in Rule .0114 of  
2 this Subchapter within the last three years shall result in the application being ~~denied;~~  
3 ~~or~~denied. An applicant for the Standard Commercial Fishing License Eligibility Pool shall  
4 provide certification that the applicant does not have four or more marine or estuarine  
5 resource convictions during the previous three ~~[years;]~~years, as set forth in Rule .0101 of  
6 this Subchapter; and

- 7 (d) ~~A~~a record of habitual violations evidenced by eight or more convictions in the last 10 years  
8 shall result in the application being denied.

9 For purposes of eligibility for the Standard Commercial Fishing License Eligibility Pool, the term  
10 convictions shall include ~~but not be limited to~~any conviction for violation of any provision of  
11 Chapter 113 of the North Carolina General Statutes and any rule implementing or authorized by  
12 such ~~statutes; statutes,~~any conviction for violation of G.S. 76-40 and any rule implementing or  
13 authorized by such ~~statute; statute,~~any conviction of Chapter 75A of the North Carolina General  
14 Statutes and any rule implementing or authorized by such ~~statutes; statutes,~~any conviction for  
15 violation of any provision of Article 7 of Chapter 143B of the North Carolina General Statutes and  
16 any rule implementing or authorized by such ~~statutes; statutes,~~any conviction of resist, obstruct, or  
17 delay involving a ~~Marine Patrol Officer or Wildlife Officer~~Marine Fisheries Inspector or Wildlife  
18 Protector under G.S. ~~14-223; 14-223,~~ and any conviction involving assaultive behavior toward a  
19 ~~Marine Patrol Officer~~Marine Fisheries Inspector or other governmental official of the Department  
20 of ~~Environment and Natural Resources~~Environmental Quality or the Wildlife Resources  
21 Commission.Commission;

22 Applicants for the Standard Commercial Fishing License Eligibility Pool must provide certification  
23 that the applicant does not have four or more marine or estuarine resource violations during the  
24 previous three years.

- 25 (3) ~~The~~the responsible party applicant shall not have transferred a Standard Commercial Fishing  
26 License granted by the Standard Commercial Fishing License Eligibility Board.~~Board; and~~  
27 (4) ~~All applicants~~an applicant for the Standard Commercial Fishing License Eligibility Pool ~~must~~shall  
28 meet all other statutory eligibility requirements for ~~the~~a Standard Commercial Fishing License.

29  
30 *History Note: Authority G.S. 113-134; 113-168.1; 113-168.2; 113-182; 143B-289.52; S.L. 1998-225, s. 4.24;*  
31 *Temporary Adoption Eff. April 1, 1999;*  
32 *Eff. August 1, 2000;*  
33 *Amended Eff. October 1, 2008; February 1, 2008;*  
34 *Readopted Eff. May 1, 2022.*



1 15A NCAC 03O .0405 is readopted with changes as published in 36:07 NCR 495-496 as follows:

2  
3 **15A NCAC 03O .0405 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY POOL**  
4 **APPLICATION DOCUMENTATION**

5 (a) The Standard Commercial Fishing License Eligibility Pool application form required by Rule .0402 of this Section  
6 to be submitted to the Division of Marine Fisheries shall include the following items for the applicant:

- 7 (1) participant identification number;
- 8 (2) full name;
- 9 (3) if applying as a business:
  - 10 (A) business name;
  - 11 (B) state of incorporation;
  - 12 (C) charter state;
  - 13 (D) full name of business owner;
  - 14 (E) full names of business agents, if applicable; and
  - 15 (F) type of business entity, either corporation, partnership, sole proprietorship, or limited  
16 liability company;
- 17 (4) type of picture identification used to verify the applicant's identify, either state driver's license, state  
18 identification card issued by the Division of Motor Vehicles, military identification card, resident  
19 alien card, or passport, and identification number and identification expiration date;
- 20 (5) date of birth;
- 21 (6) state of primary residence;
- 22 (7) e-mail address, if applicable;
- 23 (8) physical address;
- 24 (9) mailing address;
- 25 (10) home phone number, business phone number, fax number, and cellular phone number, if applicable;  
26 and
- 27 (11) race, gender, height, weight, eye color, and hair color.

28 If applying as a business, the business agent's information is required for Subparagraphs (a)(2) and (a)(4) through  
29 (a)(11).

30 ~~(a)~~ (b) Documentation for ~~applications~~ applications for determination of eligibility for the Standard Commercial  
31 Fishing License Eligibility Pool shall include:

- 32 (1) ~~Statements~~ statements from individuals verifying the ~~applicant's involvement~~ applicant's  
33 involvement in commercial fishing or the commercial fishing industry, which shall contain the  
34 individual's individual's name, address address, and telephone number number, and ~~must be~~  
35 notarized the individual's signature shall be notarized;
- 36 (2) ~~Proof~~ proof of income derived from commercial fishing or the commercial fishing industry. Proof  
37 of this income shall be tax ~~records~~ records; and

1           (3)     ~~The~~the extent to which the applicant has complied with federal and state laws, regulations, and  
2                     rules relating to coastal fishing and protection of the environment. Federal compliance will be  
3                     verified by a notarized statement from the applicant that ~~he~~the applicant has complied with federal  
4                     ~~laws.~~laws, as set forth in Rule .0101 of this Subchapter.

5     (4)~~(b)~~(c) All documents required by this Rule ~~must~~shall be notarized.

6     (5)~~(e)~~(d) (c) Applications shall be legible and complete or they will be returned.

7     (6)~~(d)~~(e) It ~~is~~shall be unlawful to submit false statements on applications or supporting documents. If eligibility is  
8     based on false information provided by the applicant, this eligibility ~~is~~shall be automatically revoked.

9

10    *History Note:     Authority G.S. 113-134; 113-182; 143B-289.52; S.L. 1998-225, s. 4.24;*

11                     *Temporary Adoption Eff. April 1, 1999;*

12                     *Eff. August 1, 2000;*

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



ROY COOPER  
*Governor*

ELIZABETH S. BISER  
*Secretary*

KATHY B. RAWLS  
*Director*

Dear Applicant,

Enclosed is the application for the North Carolina Standard Commercial Fishing License Eligibility Board. The application and supporting documentation you provide will be used to determine if you qualify for a Standard Commercial Fishing License. Please complete the application and all forms completely and legibly.

Instructions for the verification and supporting documentation are provided, as well as a checklist, to help in the aid of submitting a complete application.

You will need to provide a clear and legible copy of an official picture ID, such as a driver's license, military ID, or a picture ID issued by the NC Division of Motor Vehicles with your application.

A copy of North Carolina Marine Fisheries Commission rules governing eligibility and application requirements are also provided.

When you have completed the application and obtained all supporting documents, you will need to submit the original and four (4) copies of the application and supporting documents to the Eligibility Board Clerk for processing. Please separate them into five completed packages.

Submit your application package to:

NC Division of Marine Fisheries  
ATTN: License Eligibility Office  
PO Box 769  
Morehead City, NC 28557-0769

If you have any questions pertaining to the completion of the Standard Commercial Fishing License Eligibility Pool Application, please contact the Division's Eligibility Pool Program Assistant, Ann Bordeaux-Nixon, at (800) 248-4636 or (910) 796-7261.

Thank you,

Ann Bordeaux-Nixon  
Eligibility Pool Program Assistant  
NC Division of Marine Fisheries



North Carolina Department of Environmental Quality  
Division of Marine Fisheries  
**STANDARD COMMERCIAL FISHING LICENSE  
ELIGIBILITY POOL APPLICATION**

## **INSTRUCTIONS FOR VERIFICATION AND SUPPORTING DOCUMENTATION**

The following will be accepted as verification and supporting documentation:

- A personal statement about your commercial fishing history **is required**. Include your reason for wanting to obtain a commercial fishing license. This statement should detail specific years you fished either under your own license, an assignment or as crew. Include the types of fish caught, the waters you fished and to whom the catch was sold.
- Verification of involvement from a third party. Please include the name, address, and telephone number of the person supplying verifying statements and your relationship to the person (e.g., family member, fish dealer, fellow commercial fisherman, crewmember, employer, etc.). Include the specific years you fished either under your own license or another person's license, types of fish caught, waters you fished, and to whom the catch was sold.
- Tax statements (e.g. Schedule C or 1099's) that indicate income from commercial fishing during the years you are claiming.
- Copies of trip tickets, invoices, or fishing logs during the years you are claiming commercial fishing history. If you fished from 1994 to the present and landed commercial catch in North Carolina, the Division will obtain trip ticket history from the Trip Ticket Program for you. If you landed in other states, you must provide documentation for those landings.
- Copies of commercial licenses. For any North Carolina commercial fishing history prior to 1994, you must provide proof of commercial fishing licenses through various documents such as copies of old licenses. The Division will obtain information from the license database of any North Carolina commercial license history from 1994 to present. If applying with commercial fishing license history from other agencies (e.g., other state agencies or the National Marine Fisheries Service), provide copies of that documentation.
- Any other information that would further document your commercial fishing history.

***Reminder: All statements must be signed in front of a notary and notarized.***

*In order to help you understand the process and procedures involved in the Eligibility Pool, please see the document a copy of the Marine Fisheries Commission rule for the Standard Commercial License Eligibility, Rule 15A NCAC 30 .0400.*

*Of special importance is rule 15A NCAC 03O .0404 listing the **Eligibility Criteria**.*

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**North Carolina Department of Environmental Quality  
Division of Marine Fisheries  
STANDARD COMMERCIAL FISHING LICENSE  
ELIGIBILITY POOL APPLICATION  
PAGE 2 OF 2**

Applicant's Name _____	Date of Birth _____
------------------------	---------------------

**1. ELIGIBILITY CRITERIA:**

In order for the SCFL Eligibility Board to determine if you are qualified to be placed in the License Eligibility Pool, please select one or more of the criteria listed below that describes your involvement in commercial fishing. *PROVIDE SUPPORTING DOCUMENTATION FOR EACH OF THE CRITERIA SELECTED.* All supporting documentation must be signed by the provider and notarized (Instructions on Attachment 1).

- \_\_\_\_\_ Significant involvement in the commercial fishing industry three of the last five years; or
- \_\_\_\_\_ Significant involvement in commercial fishing or in the commercial fishing industry prior to the last five years; or
- \_\_\_\_\_ In the case of an applicant who is under 16 years of age, significant involvement in commercial fishing for two out of the last five years with a parent, legal guardian, grandparent or other adult; or
- \_\_\_\_\_ Significant Involvement of the applicant's family in commercial fishing. For the purpose of this Sub-item, family shall include mother, father, brother, sister, spouse, children, grandparents, or legal guardian.

**2. COMPLIANCE WITH LAWS AND REGULATIONS**

List all fishing, environmental, and natural resource warnings, violations, convictions, and license suspensions or revocations, issued by any federal or state agency in the previous 10 years. If there are no violations put "NONE"; **do not leave this table blank.**<sup>1</sup>

<b>STATE AND FEDERAL VIOLATIONS, CONVICTIONS, WARNINGS, SUSPENSIONS, REVOCATIONS</b>			
<b>STATE/FEDERAL AGENCY</b>	<b>LICENSE NO.</b>	<b>TYPE OF OFFENSE</b>	<b>DESCRIPTION</b>

**3. COMMERCIAL FISHING INCOME**

Please submit tax records (1099, W2, Schedule C, tax return, etc.) as proof of commercial fishing income if available.

Applicant Signature: \_\_\_\_\_ Date \_\_\_\_\_

NOTARY (must be notarized)

State: \_\_\_\_\_ County: \_\_\_\_\_

Sworn to and Subscribed before me this \_\_\_\_\_ day and year of \_\_\_\_\_.

Notary Public: \_\_\_\_\_ My Commission expires \_\_\_\_\_

<sup>1</sup> Please see NC Marine Fisheries Commission Rule 15A NCAC 03O .0405(5),(6)



**North Carolina Department of Environmental Quality  
Division of Marine Fisheries  
LICENSE APPLICATION CERTIFICATION FORM  
(REV 2022-04)**

<b>OFFICE USE ONLY</b>	Year _____
PID # _____	
License # _____	
_____	
_____	
DMF Staff: _____	

**Certification Statement** *(This section must be completed by applicant)*

I, \_\_\_\_\_ certify that:

1. All the information provided on this application and any supporting documentation provided is true, accurate, and complete. And further, for renewals, any changes in information or supporting documents have been provided at the time of renewal. I understand that any false information or fraudulent disclosures may result in termination of appropriate licenses, permits and related documents, revocation or suspension of marine fisheries licensing and other privileges, and in possible criminal prosecution.

2. I am a resident of the State of: \_\_\_\_\_.

If claiming resident status in North Carolina, I certify further that *(check one)*:

- I have been a legal resident for more than six months, or
- If domiciled in North Carolina between 60 days and six months, I have completed and submitted with this application a notarized Certificate of Eligibility for North Carolina Residency.

3. If applying for a Standard or Retired Standard Commercial Fishing License as a North Carolina Resident, I also certify that *(check the appropriate entry)*:

- I filed a North Carolina State Income Tax Return for the previous calendar or tax year.
- I was not required to file a North Carolina State Income Tax Return for the previous calendar or tax year.

I understand if there are any questions regarding the filing of a North Carolina State Income Tax Return, I may have to provide appropriate tax records, as requested by the Division of Marine Fisheries.

4. For commercial fishing licenses, endorsements or registrations I certify that:

- a) I currently have no marine fisheries licenses, permits, endorsements, or registrations under suspension or revocation and the privilege to hold such licenses, permits, endorsements, or registrations is not revoked or suspended.
- b) I have not been convicted of four or more violations in any jurisdiction related to state or federal law or regulations involving or related to marine or estuarine resources during the previous three years.

5. NC General Statute §113-221 requires the NC Division of Marine Fisheries to provide a current copy of the rules governing activities authorized by the license you are purchasing. You have the right to request a current rulebook in hardbound. The document is available on the Division of Marine Fisheries website on the "Rules and Regulations" webpage at <https://deq.nc.gov/about/divisions/marine-fisheries/rules-proclamations-and-size-and-bag-limits/rules>.

6. For for-hire fishing licenses and endorsements, I affirm that I have liability insurance and that I am knowledgeable of USCG safety requirements for the vessel(s) used in the operation in accordance with G.S. 113-168.6.

7. If application is for a Standard/Retired Commercial Fishing License with a Shellfish Endorsement or a Shellfish License for NC Residents I affirm that I have received the required harvester training.

8. For Ocean Fishing Pier License, linear length of the pier and responsible parties has not changed.

9. If applying for a Land or Sell License, I also certify that: *(check the appropriate entry)*

- I have a commercial fishing license issued by the state of \_\_\_\_\_ (Other than North Carolina).
- I have a federal permit that allows commercial fishing.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

**NOTARY** *(Only NEW applications must be notarized)*

State: \_\_\_\_\_ County: \_\_\_\_\_

Sworn to and Subscribed before me this \_\_\_\_\_ day and year of \_\_\_\_\_,

Notary Public: \_\_\_\_\_ My Commission expires: \_\_\_\_\_



North Carolina Department of Environmental Quality  
Division of Marine Fisheries  
STANDARD COMMERCIAL FISHING LICENSE  
ELIGIBILITY POOL APPLICATION

## STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY POOL RULES

### SECTION .0400 - STANDARD COMMERCIAL LICENSE ELIGIBILITY

#### 15A NCAC 030 .0401 ELIGIBILITY BOARD

(a) The Chairman of the Marine Fisheries Commission, the Secretary of the Department of Environment and Natural Resources, and the Director of the Division of Marine Fisheries may each name a designee and an alternate designee to serve on the Eligibility Board as their representative in their absence.

(b) The Eligibility Board shall not review an application for eligibility without a quorum of the Eligibility Board members or designees being present. Two or more members of the Eligibility Board or their designees constitute a quorum.

*History Note: Authority G.S. 113-134; 143B-289.52; S.L. 1998-225, s. 4.24;  
Temporary Adoption Eff. April 1, 1999;  
Eff. August 1, 2000*

#### 15A NCAC 030 .0402 APPLICATION PROCESS

(a) Application forms for determination of eligibility for the Standard Commercial Fishing Licenses Eligibility Pool shall be available at all offices of the Division of Marine Fisheries and must be submitted to the Morehead City Office of the Division of Marine Fisheries for processing.

(b) Only one application per individual for determination of eligibility for the Standard Commercial Fishing Licenses Eligibility Pool shall be accepted or may be pending at any one time. An applicant may have only one entry in the eligibility pool at any one time.

(c) Individuals who currently hold or are eligible to purchase a Standard or Retired Standard Commercial Fishing License shall not be eligible to apply for additional Standard Commercial Fishing Licenses through the Standard Commercial Fishing Licenses Eligibility Pool.

(d) If an applicant has died or becomes ineligible and is subsequently selected from the eligibility pool, that license eligibility shall automatically revert to the eligibility pool.

(e) Persons claiming retirement from commercial fishing or transferring their Standard Commercial Fishing License may not apply for pool eligibility for two years from the date of the last transfer except as provided in 15A NCAC 030 .0404(3).

(f) Applicants shall notify the Division of Marine Fisheries within 30 days of a change of address.

*History Note: Authority G.S. 113-134; 143B-289.52; S.L. 1998-225, s. 4:24;  
Temporary Adoption Eff. April 1, 1999;  
Eff. August 1, 2000;  
Amended Eff. October 1, 2008; February 1, 2008.*

#### 15A NCAC 030 .0403 ELIGIBILITY BOARD REVIEW

(a) After determination by the Eligibility Board, applicants will be notified in writing as to the applicant's meeting or not meeting required eligibility criteria for the Standard Commercial Fishing License Eligibility Pool.

(b) The Marine Fisheries Commission shall determine the number of licenses available from the pool at their first scheduled meeting following July 1 of each year.

(c) The Eligibility Board shall meet to review applications as often as deemed necessary by the Chairman of the Eligibility Board.

*History Note: Authority G.S. 113-134; 143B-289.52; S.L. 1998-225, s. 4:24;  
Temporary Adoption Eff. April 1, 1999;  
Eff. August 1, 2000;  
Amended Eff. February 1, 2008.*

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**North Carolina Department of Environmental Quality  
Division of Marine Fisheries  
STANDARD COMMERCIAL FISHING LICENSE  
ELIGIBILITY POOL APPLICATION**

**15A NCAC 030 .0404 ELIGIBILITY CRITERIA**

In determining eligibility of an application for the Standard Commercial Fishing License Eligibility Pool, the Eligibility Board shall apply the following criteria:

- (1) Involvement in Commercial Fishing:
  - (a) Significant involvement in the commercial fishing industry for three of the last five years; or
  - (b) Significant involvement in commercial fishing or in the commercial fishing industry prior to the last five years; or
  - (c) In the case of an applicant who is under 16 years of age, significant involvement in commercial fishing for two out of the last five years with a parent, legal guardian, grandparent or other adult; or
  - (d) Significant involvement of the applicant's family in commercial fishing. For the purpose of this Sub-item, family shall include mother, father, brother, sister, spouse, children, grandparents or legal guardian.

For the purposes of this Rule, significant involvement means persons or corporations who are engaged in the actual taking of fish for sale, from the waters of the State, or other states, jurisdictions, or federal waters, or any licensed dealer or the dealer's employees who purchases fish at the point of landing. Significant involvement does not include activities such as those who transport fish from the point of landing; those who sell or make commercial or recreational fishing gear; those who operate bait and tackle shops unless they are engaged in the actual taking of bait for sale; or those who work in fish markets or crab picking operations.

- (2) Compliance with Applicable Laws and Regulations:
  - (a) The applicant shall not have any licenses, endorsements or commercial fishing vessel registrations issued by the Division of Marine Fisheries or the right to hold such under suspension or revocation at the time of application or during the eligibility review; or
  - (b) If selected for the Standard Commercial Fishing License Eligibility Pool, the applicant shall become ineligible for the Standard Commercial Fishing License Eligibility Pool if any licenses, endorsements or registrations or the right to hold such issued by the Division of Marine Fisheries are suspended or revoked; or
  - (c) Four convictions within the last three years or the number of convictions which would cause suspension or revocation of license, endorsement, or registration within the last three years shall result in the application being denied; or
  - (d) A record of habitual violations evidenced by eight or more convictions in the last 10 years shall result in the application being denied.

For purposes of eligibility for the Standard Commercial Fishing License Eligibility Pool, the term convictions shall include but not be limited to any conviction for violation of any provision of Chapter 113 of the North Carolina General Statutes and any rule implementing or authorized by such statutes; any conviction for violation of G.S. 76-40 and any rule implementing or authorized by such statute; any conviction of Chapter 75A of the North Carolina General Statutes and any rule implementing or authorized by such statutes; any conviction for violation of any provision of Article 7 of Chapter 143B of the North Carolina General Statutes and any rule implementing or authorized by such statutes; any conviction of resist, obstruct, or delay involving a Marine Patrol Officer or Wildlife Officer under G.S. 14-223; and any conviction involving assaultive behavior toward a Marine Patrol Officer or other governmental official of the Department of Environment and Natural Resources or the Wildlife Commission.

Applicants for the Standard Commercial Fishing License Eligibility Pool must provide certification that the applicant does not have four or more marine or estuarine resource violations during the previous three years.

- (3) The responsible party shall not have transferred a Standard Commercial Fishing License granted by the Eligibility Board.
- (4) All applicants for the Standard Commercial Fishing License Eligibility Pool must meet all other statutory eligibility requirements for the Standard Commercial Fishing License.

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North Carolina Department of Environmental Quality  
Division of Marine Fisheries  
**STANDARD COMMERCIAL FISHING LICENSE  
ELIGIBILITY POOL APPLICATION**

*History Note: Authority G.S. 113-134; 113-168.1; 113-168.2; 143B-289.52; S.L. 1998-225, s. 4.24;  
Temporary Adoption Eff. April 1, 1999;  
Eff. August 1, 2000; Amended Eff. October 1, 2008; February 1, 2008.*

**15A NCAC 030 .0405 APPLICATION DOCUMENTATION**

Documentation for applications:

- (1) Statements from individuals verifying the applicant's involvement must contain the individual's name, address and telephone number and must be notarized.
- (2) Proof of income derived from commercial fishing or the commercial fishing industry. Proof of this income shall be tax records.
- (3) The extent to which the applicant has complied with federal and state laws, regulations, and rules relating to coastal fishing and protection of the environment. Federal compliance will be verified by a notarized statement from the applicant that he has complied with federal laws.
- (4) All documents required by this Rule must be notarized.
- (5) Applications shall be legible and complete or they will be returned.
- (6) It is unlawful to submit false statements on applications or supporting documents. If eligibility is based on false information provided by the applicant, this eligibility is automatically revoked.

*History Note: Authority G.S. 113-134; 143B-289.52; S.L. 1998-225, s. 4.24;  
Temporary Adoption Eff. April 1, 1999;  
Eff. August 1, 2000.*

**15A NCAC 030 .0406 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY POOL  
CERTIFICATION**

Annual certification to maintain an eligible application in the Standard Commercial Fishing License Eligibility Pool shall be as follows:

- (1) The applicant shall certify that the information on his original application is correct and that he desires to remain in the Standard Commercial Fishing License Eligibility Pool.
- (2) A certification form shall be provided and mailed to the applicant at the last known address by the Division.
- (3) This certification, with any changes such as address, phone number, or updated fisheries involvement information since the last application or certification must be notarized and submitted to the Division within 12 months of the initial application and annually thereafter.
- (4) Failure to return certification that application is correct or with changes within 30 days shall result in the application being deleted from the Standard Commercial Fishing License Eligibility Pool.
- (5) An applicant that has been deleted from the Standard Commercial Fishing License Eligibility Pool shall receive a notice from the Division.

*History Note: Authority G.S. 113-134; 143B-289.52; S.L. 1998-225, s. 4.24;  
Temporary Adoption Eff. April 1, 1999;  
Eff. August 1, 2000.*

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North Carolina Department of Environmental Quality  
Division of Marine Fisheries  
**STANDARD COMMERCIAL FISHING LICENSE  
ELIGIBILITY POOL APPLICATION**

## CHECKLIST

- Do all reference letters include the writer's name, address, & phone number?
- Do all reference letters and personal statements include specific information such as: years worked in the commercial fishing industry, what bodies of water you worked on, what types of fish you caught, and where you sold your catch?
- Are all reference letters and personal statements signed, dated, and notarized?
- Does each reference have a separate letter?
- Is the application filled out completely?
- Is the application signed and dated?
- Is a copy of a valid state issued ID included in your complete application? Is your ID copy legible and active (not expired)?
- Is a personal notarized statement included in your complete application?
- Is the certification form included in your application package filled out completely, signed, dated, and notarized?
- Does your complete application package include: the completed original application and four copies of the original supporting documents? Did you darken all press seal notary seals with pencil shading before making copies?
- Is this the address on my envelope?

NC Division of Marine Fisheries  
Licenses  
PO Box 769  
Morehead City, NC 28557-0769

Incomplete packages will not be submitted for consideration by the board. If you have any questions pertaining to the completion of the Standard Commercial Fishing License Eligibility Pool Application, please contact the Division's Eligibility Pool Program Assistant, Ann Bordeaux-Nixon, at (800) 248-4636 or (910) 796-7261.

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1 15A NCAC 03O .0502 is readopted with changes as published in 36:07 NCR 496-497 as follows:

2  
3 **15A NCAC 03O .0502 PERMIT CONDITIONS; GENERAL PERMIT CONDITIONS**

4 (a) It shall be unlawful to violate any permit condition.

5 (b) The following conditions shall apply to all permits issued by the Fisheries Director:

6 (1) ~~it is unlawful to~~ it shall be unlawful to:

7 (A) operate under the permit except in areas, at times, and under conditions specified on the  
8 ~~permit; permit.~~

9 (2)(B) ~~it is unlawful to~~ operate under a permit without having the permit or copy thereof in  
10 possession of the permittee or ~~his or her~~ the permittee's designees at all times of operation  
11 and the permit or copy thereof shall be ready at hand for inspection, except for a Pound  
12 ~~Net Permits; Set Permit.~~

13 (3)(C) ~~it is unlawful to~~ operate under a permit without having a current [valid] picture  
14 identification in possession and ready at hand for ~~inspection; inspection.~~

15 (4)(D) ~~it is unlawful to~~ refuse to allow inspection and sampling of a permitted activity by an agent  
16 of the ~~Division; Division of Marine Fisheries.~~

17 (5)(E) ~~it is unlawful to~~ fail to provide complete and accurate information requested by the  
18 Division in connection with the permitted ~~activity; activity.~~

19 (F) provide false information in the application for initial issuance, renewal, or transfer of a  
20 permit.

21 (6)(G) ~~it is unlawful to~~ hold a permit issued by the Fisheries Director ~~when~~ if not eligible to hold  
22 any license required as a condition for that permit as stated in 15A NCAC 03O .0501; Rule  
23 .0501 of this Section.

24 (7)(H) ~~it is unlawful to~~ fail to provide reports within the timeframe required by the specific permit  
25 ~~conditions; conditions.~~

26 (8)(I) ~~it is unlawful to~~ fail to keep such records and accounts as required by the rules in this  
27 Chapter for determination of conservation policy, equitable and efficient administration  
28 and enforcement, or promotion of commercial or recreational ~~fisheries; fisheries.~~

29 (9)(J) ~~it is unlawful to~~ assign or transfer permits issued by the Fisheries Director, except for a  
30 Pound Net Permits Set Permit as authorized by 15A NCAC 03J .0504; .0504.

31 (10)(2) the Fisheries ~~Director; Director~~ Director or his agent; the Fisheries Director's agent may, by conditions of the  
32 permit, ~~specify impose~~ on a commercial fishing operation and for recreational purposes any ~~or all~~  
33 of the following restrictions for the permitted purposes:

34 (a) species;

35 (b) quantity or size;

36 (c) time period;

37 (e) location;

- 1           ~~(d)~~ — means and methods;
- 2           ~~(f)~~ — disposition of resources;
- 3           ~~(g)~~ — marking requirements; or
- 4           ~~(h)~~ — harvest conditions.
- 5           (A)    specify time;
- 6           (B)    specify area;
- 7           (C)    specify means and methods;
- 8           ~~(D)~~ — specify requirements for a commercial fishing operation or for recreational purposes;
- 9           ~~(E)~~~~(D)~~ specify record keeping and reporting requirements;
- 10          ~~(F)~~~~(E)~~ specify season;
- 11          ~~(G)~~~~(F)~~ specify species;
- 12          ~~(H)~~~~(G)~~ specify size;
- 13          ~~(I)~~~~(H)~~ specify quantity;
- 14          ~~(J)~~~~(I)~~ specify disposition of resources;
- 15          ~~(K)~~~~(J)~~ specify marking requirements; and
- 16          ~~(L)~~~~(K)~~ specify harvest conditions.

17       ~~(11)~~(3) unless specifically stated as a condition on the permit, all statutes, ~~rules~~rules, and proclamations  
18       shall apply to the permittee and ~~his or her designees; and the permittee's designees.~~

19       ~~(12)~~ as a condition of accepting the permit from the Fisheries Director, the permittee agrees to abide by  
20       all conditions of the permit and agrees that if specific conditions of the permit, as identified on the  
21       permit, are violated or if false information was provided in the application for initial issuance,  
22       renewal or transfer, the permit may be suspended or revoked by the Fisheries Director.

24       History Note:    Authority G.S. 113-134; 113-169.1; 113-170.2; 113-170.3; 113-182; 113-210; 143B-289.52;  
25       Temporary Adoption Eff. May 1, 2000;  
26       Eff. April 1, 2001;  
27       Amended Eff. April 1, 2009; September 1, 2005;  
28       Redopted Eff. (Pending legislative review pursuant to S.L. 2019-198).

1 15A NCAC 03O .0504 is readopted with changes as published in 36:07 NCR 497-498 as follows:

2  
3 **15A NCAC 03O .0504 ~~SUSPENSION/REVOCATION~~ SUSPENSION AND REVOCATION OF PERMITS**

4 (a) All commercial and recreational permits issued under Article 14A, Article 14B, and Article 25A of Chapter 113,  
5 and rules of the Marine Fisheries Commission shall be subject to suspension and revocation. For the purpose of this  
6 Rule and in accordance with G.S. 150B-2, "permit" includes "certification" and "certificate of compliance".

7 (b) If a license is required to hold a permit:

8 (1) all permits shall be suspended or revoked if the permittee's license privilege has been suspended or  
9 revoked as set forth in G.S. 113-171 and Rule .0114 of this Subchapter. The duration of the permit  
10 suspension or revocation shall be the same as the license suspension or revocation.

11 (2) in the event a person makes application for a new permit during any period of license or permit  
12 suspension, no new permit shall be issued during the suspension period.

13 (3) in the case of revocation of license privileges, the former licensee shall not be eligible to apply for  
14 reinstatement of a revoked [permit.] **permit while license privileges are revoked.**

15 (c) If a license is not required to hold a permit, in the case of revocation of a permit, the former permittee shall not be  
16 eligible to apply for reinstatement of a revoked permit for a period of six months.

17 ~~(a)~~(d) It shall be unlawful to violate any permit condition. For violation of ~~specific~~ permit conditions **(as-as** specified  
18 on the **permit),-permit,** permits may be suspended or revoked according to the following schedule:

19 (1) violation of one ~~specific~~ permit condition in a ~~three year~~ three-year period, permit shall be suspended  
20 for 10 ~~days;~~ days.

21 (2) violation of two ~~specific~~ permit conditions in a ~~three year~~ three-year period, permits shall be  
22 suspended for 30 ~~days;~~ days.

23 (3) violation of three ~~specific~~ permit conditions in a ~~three year~~ three-year period, permits shall be  
24 revoked for a period not less than six months.

25 (4) violation of any permit conditions as set forth in 15A NCAC 03J .0505(a), permits may be revoked  
26 and the former permittee may not be eligible to apply for any future Pound Net Set Permits.

27 If several permit conditions are violated as a result of a single transaction or occurrence, the permit violations shall be  
28 treated as a single violation for the purpose of suspension or revocation. ~~If the permit condition violated is the refusal~~  
29 to provide information upon request by Division staff, either by telephone, in writing or in person, the Fisheries  
30 Director may suspend the permit. Such permit may be reinstated 10 days after the requested information is provided.

31 ~~(b)~~ All permits will be suspended or revoked when the permittee's license privilege has been suspended or revoked  
32 as set out in G.S. 113-171. The duration of the suspension or revocation shall be the same as the license suspension  
33 or revocation. ~~In the event the person makes application for a new permit during any period of license suspension, no~~  
34 new permit will be issued during the suspension period. ~~In case of revocation of license privileges, the minimum~~  
35 waiting period before application for a new permit to be considered will be six months.

36 ~~(e)~~(e) Permit designees shall not be permitted to participate in a permit operation during any period they are under  
37 license suspension or revocation.

1 (f) If violation of permit conditions requires suspension or revocation of a permit, the Fisheries Director shall cause  
2 the permittee to be served with written notice of the intent to commence suspension or revocation. If the permittee is  
3 not an individual, the written notice shall be served upon any responsible individual affiliated with the corporation,  
4 partnership, or association. The notice of the intent to commence suspension or revocation shall be served by an  
5 inspector or other agent of the Department or by certified mail, and shall state the grounds upon which it is based.

6 (g) The Fisheries Director shall order summary suspension of a permit if ~~it~~ he or she finds that the public health,  
7 safety, or welfare requires emergency action. Upon such determination, the Fisheries Director shall issue an order  
8 giving the reasons for the emergency action. The effective date of the order shall be the date specified on the order or  
9 the date of service of a certified copy of the order at the last known address of the permittee, whichever is later.

10 ~~(d)(h)~~ Upon service of a notice of suspension or revocation of a permit, it is shall be unlawful to fail to surrender any  
11 permit so suspended or revoked.

12 (i) It shall be unlawful to fail to surrender a permit issued by the Division in error immediately upon service of a  
13 notice by an agent of the Fisheries Director to surrender the permit.

14 ~~(j) It shall be unlawful to evade the service prescribed in this Rule.~~

15 ~~(k)~~ (j) It shall be unlawful to fail to remove all gear, markers, and devices associated with an Aquaculture Operation  
16 Permit within 30 days after expiration of the Aquaculture Operation Permit, termination of a shellfish lease for which  
17 the Aquaculture Operation Permit was issued, or notice by the Fisheries Director that an existing Aquaculture  
18 Operation Permit has been revoked or denied. Similar requirements for gear removal for a Pound Net Set Permit are  
19 described in 15A NCAC 03J .0505.

20  
21 *History Note: Authority G.S. 113-134; 113-171; 113-182; 113-202; 113-221.2; 143B-289.52; 150B-3; S.L. 2010-*  
22 *145;*  
23 *Temporary Adoption Eff. May 1, 2000;*  
24 *Eff. April 1, 2001;*  
25 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03P .0101 is readopted with changes as published in 36:07 NCR 498 as follows:

2  
3 **SUBCHAPTER 03P - ~~HEARING~~ ADMINISTRATIVE PROCEDURES**

4  
5 **SECTION .0100 - HEARING PROCEDURES**

6  
7 **15A NCAC 03P .0101 LICENSE, PERMIT, OR CERTIFICATE DENIAL: REQUEST FOR REVIEW**

8 (a) Except in cases where summary suspension is applicable, before the Division of Marine Fisheries may commence  
9 proceedings for suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of a license, notice  
10 shall be given to the license holder that the license holder may file a petition for a contested case in accordance with  
11 G.S. 113-171(e) and may request a final agency decision in accordance with G.S. 113-171(f).

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

14 ~~(b)(c)~~ Except in cases where G.S. ~~113-171~~ 113-171, 15A NCAC 03O .0114, or summary suspension is applicable,  
15 before the Division may commence proceedings for suspension, revocation, annulment, withdrawal, recall,  
16 cancellation, or amendment of a ~~license, permit,~~ notice shall be given to the ~~license holder that~~ permittee that the  
17 permittee:

18 (1) may request an opportunity to show compliance with all requirements for retention of the permit by  
19 submitting a statement in writing to the personnel designated in the notice to commence  
20 proceedings; and

21 ~~(1)(2)~~ the license holder has a the right, through filing a request for a contested case hearing in the Office  
22 of Administrative Hearings, to a hearing before an administrative law judge, judge and a final agency  
23 decision by the Marine Fisheries Commission; and

24 (2) the license holder may request an opportunity to show compliance with all requirements for  
25 retention of the license by submitting a statement in writing to the personnel designated in the notice  
26 to commence proceedings.

27 ~~(e)(d)~~ For a permit related to endangered or threatened species or a species managed by a quota, any statements  
28 submitted by the permittee to show compliance with all requirements for retention of the permit shall be postmarked  
29 or emailed within five days of receipt of the notice to commence proceedings. For all other permits, any Any  
30 statements submitted by the license holder permittee to show compliance with all requirements for retention of the  
31 license permit shall be postmarked or emailed within 15-10 days of receipt of the notice to commence [proceedings.  
32 ][proceedings, except for a permit related to endangered or threatened species or a species managed by a quota, any  
33 statements to show compliance shall be postmarked or emailed within five days of receipt of the notice to commence  
34 proceedings.] Statements and any supporting documentation shall be addressed to the personnel designated in the  
35 notice and ~~mailed if mailed,~~ sent to the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead  
36 City, NC ~~28557~~ 28557, or if emailed, sent to the email address provided in the notice for the designated personnel.



1 ~~(d)~~(e) Upon receipt of a statement and any supporting documentation from the ~~license holder, permittee,~~ the Division  
2 shall review the statement and, within ~~15-10~~ days, shall notify the ~~license holder permittee~~ in writing with the  
3 Division's determination whether the ~~license holder permittee~~ demonstrated compliance with all requirements for  
4 retention of the ~~license permit.~~ In making this determination, the Division may consider **criteria including material**  
5 changes **the permittee** made enabling the ~~license holder permittee~~ to conduct the operations for which the ~~license~~  
6 ~~permit~~ is held in ~~accord~~ accordance with all applicable laws and ~~rules~~ rules, and processing errors made by the  
7 Division.

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

12  
13 *History Note: Authority G.S. 113-134; 113-171; 113-182; 113-221.2; 143B-289.52; 150B-3; 150B-23;*  
14 *Eff. January 1, 1991;*  
15 *Amended Eff. May 1, 2017; August 1, 1999;*  
16 *Readopted Eff. May 1, 2022.*

1 15A NCAC 18A .0425 is readopted with changes as published in 36:07 NCR 511 as follows:

2  
3 **15A NCAC 18A .0425 TAGGING-DEALER TAGS**

4 (a) ~~In order that information may be available to the Division with reference to the origin of shellstock, Consistent~~  
5 ~~with the rules of this Section, it shall be unlawful to possess containers holding shellstock shall be identified with~~  
6 ~~without a uniform dealer tag or label affixed after the shellstock is processed or shipped by the initial certified shellfish~~  
7 ~~dealer. The tag shall be durable, waterproof-waterproof, and measure at least 2 5/8 by 5 1/4 inches (6.7 by 13.3~~  
8 ~~centimeters)-a minimum of two and five-eighths inches by five and one-fourth inches in size. The It shall be unlawful~~  
9 ~~for the tag shall to fail to contain legible information arranged in the specific order as follows:~~

- 10 (1) the dealer's name, ~~address-address~~, and certification number assigned by the appropriate shellfish  
11 control agency;
- 12 (2) the original shipper's certification number;
- 13 (3) the harvest ~~date;date~~, or if deperated, the date of deperation processing, or if wet stored, the original  
14 ~~harvest [date, and ]date and~~ the final harvest date, which is the date removed from wet storage;
- 15 (4) ~~if wet stored or deperated, the wet storage or deperation cycle or lot number. The wet storage lot~~  
16 ~~number shall begin with the letter "W":~~
- 17 (4)(5) ~~the harvest location, including the country or state abbreviation;the most precise identification of~~  
18 ~~the harvest location as is practicable, including the initials of the state of harvest, and the state or~~  
19 ~~local shellfish control authority's designation of the growing area by indexing, administrative, or~~  
20 ~~geographic designation. If the authority in another state has not indexed growing areas, then a~~  
21 ~~geographical or administrative designation shall be used (e.g., Long Bay, shellfish lease or franchise~~  
22 ~~number, or lot number);~~
- 23 (5) ~~when the shellstock has been in wet storage, the statement "THIS PRODUCT WAS IN WET~~  
24 ~~STORAGE AT (FACILITY CERTIFICATION NUMBER) FROM (DATE) TO (DATE)";~~
- 25 (6) the type and quantity of ~~shellfish;shellstock~~;
- 26 (7) the following ~~statement shall appear-statements~~ in ~~bold-bold~~, capitalized ~~type-font~~:
- 27 (A) "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND  
28 THEREAFTER KEPT ON FILE-FILE, IN CHRONOLOGICAL ORDER, FOR 90  
29 DAYS;"-DAYS."; and
- 30 (B) "RETAILERS: DATE WHEN LAST SHELLFISH FROM THIS CONTAINER SOLD  
31 OR SERVED (INSERT DATE) \_\_\_\_\_.";
- 32 (8) the following statement, or ~~equivalent, equivalent~~:
- 33 "Consumer Advisory
- 34 Eating raw oysters, ~~elams-clams~~, or mussels may cause severe illness. People with the following
- 35 conditions are at especially high risk: liver disease, alcoholism, diabetes, cancer, stomach or blood
- 36 disorder, or weakened immune system. Ask your doctor if you are unsure of your risk. If you eat
- 37 raw shellfish and become sick, see a doctor ~~immediately."~~immediately."; and

1           (9) the following statement, or equivalent:

2                   "Keep Refrigerated".

3 (b) The ~~uniform-dealer~~ tag or label shall remain attached to the shellstock container until the container is empty and  
4 thereafter shall be kept on ~~file-file, in chronological order,~~ for 90 days.

5 ~~(c) All shellstock from a depuration facility must be identified as having been cleansed by a depuration facility~~  
6 ~~identified by a name and permit number on the tag.~~

7

8 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

9 *Eff. February 1, 1987;*

10 *Amended Eff. April 1, 1997; January 4, 1994; December 1, 1987;*

11 *Temporary Amendment Eff. October 12, 1998; February 1, 1998;*

12 *Amended Eff. April 1, 1999;*

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

Office of General Counsel  
1601 Mail Service Center  
Raleigh, NC 27699-1601  
Tele: (919)-707-8614  
<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

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**From:** Everett, Jennifer  
**Sent:** Tuesday, April 26, 2022 10:18 AM  
**To:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Cc:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>; Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: Request for Extension - April 2022 RRC Meeting

Thank you, Brian,

We'll be in touch regarding these rules.

Jennifer

Jennifer Everett  
DEQ Rulemaking Coordinator  
N.C. Depart. Of Environmental Quality  
Office of General Counsel  
1601 Mail Service Center  
Raleigh, NC 27699-1601  
Tele: (919)-707-8614  
<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

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**From:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Sent:** Thursday, April 21, 2022 5:26 PM  
**To:** Everett, Jennifer <[jennifer.everett@ncdenr.gov](mailto:jennifer.everett@ncdenr.gov)>  
**Cc:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>; Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** Request for Extension - April 2022 RRC Meeting

Good afternoon,

Attached, please find a letter informing you that RRC extended the period for review for the requested rules (please see the letter for the citation to each extended rule) before them at the April meeting. Please let me know if you anticipate bringing these back before RRC at the May or June meetings, and I will work up some deadlines accordingly.

Thanks!  
Brian

Brian Liebman  
Counsel to the North Carolina Rules Review Commission  
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(984)236-1948  
[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)

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