

1 15A NCAC 03I .0101 is amended as published in 40:03 NCR 293-300 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 and management terms:

- 10 (a) "Commercial quota" means total quantity of fish allocated for harvest by commercial
11 fishing operations.
- 12 (b) "Educational institution" means a college, university, or community college accredited by
13 an accrediting agency recognized by the U.S. Department of Education; an Environmental
14 Education Center certified by the N.C. Department of Environmental Quality Office of
15 Environmental Education and Public Affairs; ~~or a zoo or aquarium certified by the~~
16 ~~Association of Zoos and Aquariums-Aquariums; or a public school unit, private school, or~~
17 an organization whose mission includes education.
- 18 (c) "Internal Coastal Waters" or "Internal Waters" means all Coastal Fishing Waters except
19 the Atlantic Ocean.
- 20 (d) length of finfish:
- 21 (i) "Curved fork length" means a length determined by measuring along a line tracing
22 the contour of the body from the tip of the upper jaw to the middle of the fork in
23 the caudal (tail) fin.
- 24 (ii) "Fork length" means a length determined by measuring along a straight line the
25 distance from the tip of the snout with the mouth closed to the middle of the fork
26 in the caudal (tail) fin, except that fork length for billfish is measured from the tip
27 of the lower jaw to the middle of the fork of the caudal (tail) fin.
- 28 (iii) "Pectoral fin curved fork length" means a length of a beheaded fish from the dorsal
29 insertion of the pectoral fin to the fork of the tail measured along the contour of
30 the body in a line that runs along the top of the pectoral fin and the top of the
31 caudal keel.
- 32 (iv) "Total length" means a length determined by measuring along a straight line the
33 distance from the tip of the snout with the mouth closed to the tip of the
34 compressed caudal (tail) fin.
- 35 (e) "Nongovernmental conservation organization" means an organization whose primary
36 mission is the conservation of natural resources. For the purpose of this Chapter, a

determination of the organization's primary mission is based upon the Division of Marine Fisheries' consideration of the organization's publicly stated purpose and activities.

(f) "Polluted" means any shellfish growing waters as defined in 15A NCAC 18A .0901:

(i) that are contaminated with fecal material, pathogenic microorganisms, poisonous or deleterious substances, or marine biotoxins that render the consumption of shellfish from those growing waters hazardous. This includes poisonous or deleterious substances as listed in the latest approved edition of the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish, Section IV: Guidance Documents, Chapter II: Growing Areas; Action Levels, Tolerances and Guidance Levels for Poisonous or Deleterious Substances in Seafood, which is incorporated by reference, including subsequent amendments and editions. A copy of the reference material can be found at <https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp>, at no cost;

(ii) that have been determined through a sanitary survey as defined in 15A NCAC 18A .0901 to be adjacent to a sewage treatment plant outfall or other point source outfall that may contaminate shellfish and cause a food safety hazard as defined in 15A NCAC 18A .0301;

(iii) that have been determined through a sanitary survey as defined in 15A NCAC 18A .0901 to be in or adjacent to a marina;

(iv) that have been determined through a sanitary survey as defined in 15A NCAC 18A .0901 to be impacted by other potential sources of pollution that render the consumption of shellfish from those growing waters hazardous, such as a wastewater treatment facility that does not contaminate a shellfish area when it is operating normally but will contaminate a shellfish area and shellfish in that area when a malfunction occurs; or

(v) where the Division is unable to complete the monitoring necessary to determine the presence of contamination or potential pollution sources.

(g) "Recreational possession limit" means restrictions on size, quantity, season, time period, area, means, and methods where take or possession is for a recreational purpose.

(h) "Recreational quota" means total quantity of fish allocated for harvest for a recreational purpose.

(i) "Regular closed oyster season" means March 31 through October 15, unless amended by the Fisheries Director through proclamation authority.

(j) "Scientific institution" means one of the following entities:

(i) an educational institution as defined in this Item;

- 1 (ii) a state or federal agency charged with the management of marine or estuarine
2 resources; or
- 3 (iii) a professional organization or secondary school working under the direction of,
4 or in compliance with mandates from, the entities listed in Sub-items (j)(i) and (ii)
5 of this Item.
- 6 (2) fishing activities:
- 7 (a) "Aquaculture operation" means an operation that produces artificially propagated stocks of
8 marine or estuarine resources, or other non-native species that may thrive if introduced into
9 Coastal Fishing Waters, or obtains such stocks from permitted sources for the purpose of
10 rearing on private bottom (with or without the superadjacent water column) or in a
11 controlled environment. A controlled environment provides and maintains throughout the
12 rearing process one or more of the following:
- 13 (i) food;
- 14 (ii) predator protection;
- 15 (iii) salinity;
- 16 (iv) temperature controls; or
- 17 (v) water circulation, utilizing technology not found in the natural environment.
- 18 (b) "Attended" means being in a vessel, in the water or on the shore, and immediately available
19 to work the gear and be within 100 yards of any gear in use by that person at all times.
20 Attended does not include being in a building or structure.
- 21 (c) "Blue crab shedding" means the process whereby a blue crab emerges soft from its former
22 hard exoskeleton. A shedding operation is any operation that holds peeler crabs in a
23 controlled environment. A controlled environment provides and maintains throughout the
24 shedding process one or more of the following:
- 25 (i) food;
- 26 (ii) predator protection;
- 27 (iii) salinity;
- 28 (iv) temperature controls; or
- 29 (v) water circulation, utilizing technology not found in the natural environment. A
30 shedding operation does not include transporting pink or red-line peeler crabs to
31 a permitted shedding operation.
- 32 (d) "Depurate" or "depuration" has the same meaning as defined in the 2019 revision of the
33 NSSP Guide for the Control of Molluscan Shellfish, Section I: Purpose and Definitions.
34 This definition is incorporated by reference, not including subsequent amendments and
35 editions. A copy of the reference material can be found at
36 [https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-](https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp)
37 [program-nssp](https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp), at no cost.

- 1 (e) "Long haul operation" means fishing a seine towed between two vessels.
- 2 (f) "Peeler crab" means a blue crab that has a soft shell developing under a hard shell and
- 3 having a white, pink, or red-line or rim on the outer edge of the back fin or flipper.
- 4 (g) "Possess" means any actual or constructive holding whether under claim of ownership or
- 5 not.
- 6 (h) "Recreational purpose" means a fishing activity that is not a commercial fishing operation
- 7 as defined in G.S. 113-168.
- 8 (i) "Swipe net operations" means fishing a seine towed by one vessel.
- 9 (j) "Transport" means to ship, carry, or cause to be carried or moved by public or private
- 10 carrier by land, sea, or air.
- 11 (k) "Use" means to employ, set, operate, or permit to be operated or employed.
- 12 (3) gear:
- 13 (a) "Bunt net" means the last encircling net of a long haul or swipe net operation constructed
- 14 of small mesh webbing. The bunt net is used to form a pen or pound from which the catch
- 15 is dipped or bailed.
- 16 (b) "Channel net" means a net used to take shrimp that is anchored or attached to the bottom
- 17 at both ends or with one end anchored or attached to the bottom and the other end attached
- 18 to a vessel.
- 19 (c) "Commercial fishing equipment or gear" means all fishing equipment used in Coastal
- 20 Fishing Waters except:
- 21 (i) cast nets;
- 22 (ii) collapsible crab traps, a trap used for taking crabs with the largest open dimension
- 23 no larger than 18 inches and that by design is collapsed at all times when in the
- 24 water, except when it is being retrieved from or lowered to the bottom;
- 25 (iii) dip nets or scoops having a handle not more than eight feet in length and a hoop
- 26 or frame to which the net is attached not exceeding 60 inches along the perimeter;
- 27 (iv) gigs or other pointed implements that are propelled by hand, whether or not the
- 28 implement remains in the hand;
- 29 (v) hand operated rakes no more than 12 inches wide and weighing no more than six
- 30 pounds and hand operated tongs;
- 31 (vi) hook and line, and bait and line equipment other than multiple-hook or multiple-
- 32 bait trotline;
- 33 (vii) landing nets used to assist in taking fish when the initial and primary method of
- 34 taking is by the use of hook and line;
- 35 (viii) minnow traps when no more than two are in use;
- 36 (ix) seines less than 30 feet in length;

(x) spears, Hawaiian slings, or similar devices that propel pointed implements by mechanical means, including elastic tubing or bands, pressurized gas, or similar means.

(d) "Corkline" means the support structure a net is attached to that is nearest to the water surface when in use. Corkline length is measured from the outer most mesh knot at one end of the corkline following along the line to the outer most mesh knot at the opposite end of the corkline.

(e) "Dredge" means a device towed by engine power consisting of a frame, tooth bar or smooth bar, and catchbag used in the harvest of oysters, clams, crabs, scallops, or conchs.

(f) "Fixed or stationary net" means a net anchored or staked to the bottom, or some structure attached to the bottom, at both ends of the net.

(g) "Fyke net" means an entrapment net supported by a series of internal or external hoops or frames, with one or more lead or leaders that guide fish to the net mouth. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).

(h) "Gill net" means a net set vertically in the water to capture fish by entanglement of the gills in its mesh as a result of net design, construction, mesh length, webbing diameter, or method in which it is used.

(i) "Headrope" means the support structure for the mesh or webbing of a trawl that is nearest to the water surface when in use. Headrope length is measured from the outer most mesh knot at one end of the headrope following along the line to the outer most mesh knot at the opposite end of the headrope.

(j) "Hoop net" means an entrapment net supported by a series of internal or external hoops or frames. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap the fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).

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

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

- (m) "Mechanical methods for oystering" means dredges, patent tongs, stick rakes, and other rakes when towed by engine power, and any other method that utilizes mechanical means to harvest oysters.
- (n) "Mesh length" means the distance from the inside of one knot to the outside of the opposite knot, when the net is stretched hand-tight in a manner that closes the mesh opening.
- (o) "Pound net set" means 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.
- (p) "Purse gill net" means any gill net used to encircle fish when the net is closed by the use of a purse line through rings located along the top or bottom line or elsewhere on such net.
- (q) "Seine" means a net set vertically in the water and pulled by hand or power to capture fish by encirclement and confining fish within itself or against another net, the shore or bank as a result of net design, construction, mesh length, webbing diameter, or method in which it is used.
- (4) "Fish habitat areas" means the estuarine and marine areas that support juvenile and adult populations of fish species throughout their entire life cycle, including early growth and development, as well as forage species utilized in the food chain. Fish habitats in all Coastal Fishing Waters, as determined through marine and estuarine survey sampling, are:
- (a) "Anadromous fish nursery areas" means those areas in the riverine and estuarine systems utilized by post-larval and later juvenile anadromous fish.
- (b) "Anadromous fish spawning areas" means those areas where evidence of spawning of anadromous fish has been documented in Division sampling records through direct observation of spawning, capture of running ripe females, or capture of eggs or early larvae.
- (c) "Coral" means:
- (i) fire corals and hydrocorals (Class Hydrozoa);
 - (ii) stony corals and black corals (Class Anthozoa, Subclass Scleractinia); or
 - (iii) Octocorals; Gorgonian corals (Class Anthozoa, Subclass Octocorallia), which include sea fans (*Gorgonia* sp.), sea whips (*Leptogorgia* sp. and *Lophogorgia* sp.), and sea pansies (*Renilla* sp.).
- (d) "Intertidal oyster bed" means a formation, regardless of size or shape, formed of shell and live oysters of varying density.
- (e) "Live rock" means living marine organisms or an assemblage thereof attached to a hard substrate, excluding mollusk shells, but including dead coral or rock. Living marine organisms associated with hard bottoms, banks, reefs, and live rock include:
- (i) Coralline algae (Division Rhodophyta);
 - (ii) *Acetabularia* sp., mermaid's fan and cups (*Udotea* sp.), watercress (*Halimeda* sp.), green feather, green grape algae (*Caulerpa* sp.)(Division Chlorophyta);

- (iii) Sargassum sp., Dictyopteris sp., Zonaria sp. (Division Phaeophyta);
- (iv) sponges (Phylum Porifera);
- (v) hard and soft corals, sea anemones (Phylum Cnidaria), including fire corals (Class Hydrozoa), and Gorgonians, whip corals, sea pansies, anemones, Solengastrea (Class Anthozoa);
- (vi) Bryozoans (Phylum Bryozoa);
- (vii) tube worms (Phylum Annelida), fan worms (Sabellidae), feather duster and Christmas treeworms (Serpulidae), and sand castle worms (Sabellaridae);
- (viii) mussel banks (Phylum Mollusca: Gastropoda); and
- (ix) acorn barnacles (Arthropoda: Crustacea: Semibalanus sp.).

(f) "Nursery areas" means areas that for reasons such as food, cover, bottom type, salinity, temperature, and other factors, young finfish and crustaceans spend the major portion of their initial growing season. Primary nursery areas are those areas in the estuarine system where initial post-larval development takes place. These are areas where populations are uniformly early juveniles. Secondary nursery areas are those areas in the estuarine system where later juvenile development takes place. Populations are composed of developing sub-adults of similar size that have migrated from an upstream primary nursery area to the secondary nursery area located in the middle portion of the estuarine system.

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

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

(i) "Submerged aquatic vegetation (SAV) habitat" means submerged lands that:

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

1 associated with one or more SAV species and include the sediment within these
2 areas; or

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

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

18 (5) licenses, permits, shellfish leases and franchises, and record keeping:

- 19 (a) "Assignment" means temporary transferal to another person of privileges under a license
20 for which assignment is permitted. The person assigning the license delegates the privileges
21 permitted under the license to be exercised by the assignee, but retains the power to revoke
22 the assignment at any time, and is still the responsible party for the license.
- 23 (b) "Designee" means any person who is under the direct control of the permittee or who is
24 employed by or under contract to the permittee for the purposes authorized by the permit.
- 25 (c) "For hire vessel", as defined by G.S. 113-174, means when the vessel is fishing in State
26 waters or when the vessel originates from or returns to a North Carolina port.
- 27 (d) "Franchise" means a franchise recognized pursuant to G.S. 113-206.
- 28 (e) "Holder" means a person who has been lawfully issued in the person's name a license,
29 permit, ~~franchise~~, shellfish lease, or ~~assignment~~, assignment, or who possesses a shellfish
30 franchise recognized pursuant to G.S. 113-206.
- 31 (f) "Land" means:
- 32 (i) for commercial fishing operations, when fish reach the shore or a structure
33 connected to the shore.
- 34 (ii) for purposes of trip tickets, when fish reach a licensed seafood dealer, or where
35 the fisherman is the dealer, when fish reach the shore or a structure connected to
36 the shore.

(iii) for recreational fishing operations, when fish are retained in possession by the fisherman.

(g) "Licensee" means any person holding a valid license from the ~~Department~~ Division to take or deal in ~~marine fisheries resources, resources governed by any provision of Subchapter 113 of the North Carolina General Statutes under the authority of the Marine Fisheries Commission or any rule adopted by the Marine Fisheries Commission pursuant to Subchapter 113,~~ except as otherwise defined in 15A NCAC 03O .0109.

(h) "Logbook" means paper forms provided by the Division and electronic data files generated from software ~~or web-based utilities~~ provided by the Division for the reporting of fisheries statistics by persons engaged in commercial or recreational fishing or for-hire operators.

(i) "Master" means captain or operator of a vessel or one who commands and has control, authority, or power over a vessel.

(j) "New fish dealer" means any fish dealer ~~making application applying~~ for a fish dealer license who did not possess a valid dealer license for the previous license year in that name. For purposes of license issuance, adding new categories to an existing fish dealers license does not constitute a new dealer.

(k) "Office of the Division" means physical locations of the Division conducting license and permit transactions in Wilmington, Morehead City, Washington, and Roanoke Island, North Carolina. Other businesses or entities designated by the Secretary to issue Recreational Commercial Gear Licenses or Coastal Recreational Fishing Licenses are not considered Offices of the Division.

(l) "Permittee" means any person who has been issued a permit from the Division to take or deal in resources governed by any provision of Subchapter 113 of the North Carolina General Statutes under the authority of the Marine Fisheries Commission or any rule adopted by the Marine Fisheries Commission pursuant to Subchapter 113.

(m) "Quota monitoring log" means paper forms provided by the Division and electronic data files generated from software or web-based utilities provided by the Division for the reporting of fisheries statistics by licensed fish dealers who hold dealer permits for monitoring fisheries under a quota or allocation.

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

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

(p) "Transaction" means an act of doing business such that fish are sold, offered for sale, exchanged, bartered, distributed, or landed.

~~(e)~~(q) "Transfer" means permanent transferal to another person of privileges under a license for which transfer is permitted. The person transferring the license retains no rights or interest under the license transferred.

~~(p)~~(r) "Trip ticket" means paper forms provided by the Division and electronic data files generated from software or web-based utilities provided by the Division for the reporting of fisheries statistics by licensed fish dealers.

*History Note: G.S. 113-134; 113-174; 113-182; 143B-289.52; S.L. 2015-241, s. 14.10A;
Eff. January 1, 1991;
Amended Eff. March 1, 1995; March 1, 1994; October 1, 1993; July 1, 1993;
Recodified from 15A NCAC 03I .0001 Eff. December 17, 1996;
Amended Eff. April 1, 1999; August 1, 1998; April 1, 1997;
Temporary Amendment Eff. May 1, 2000; August 1, 1999; July 1, 1999;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. August 1, 2000;
Amended Eff. May 1, 2015; April 1, 2014; April 1, 2011; April 1, 2009; October 1, 2008; December
1, 2007; December 1, 2006; September 1, 2005; April 1, 2003; April 1, 2001;
Readopted Eff. June 1, 2022;
Amended Eff. March 24, ~~2025~~2025;
Amended Eff. (Pending legislative review of 15A NCAC 03O .0503).*

1 15A NCAC 03I .0114 is amended as published in 40:03 NCR 300-301 as follows:

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

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

5 (1) to record false information on the North Carolina trip ticket or to fail to legibly record all items on
6 the North Carolina trip ticket for each ~~transaction~~ transaction, including for fish harvested but not
7 sold pursuant to 15A NCAC 03I .0123, and submit the trip ticket in accordance with G.S. 113-168.2,
8 including the following:

9 (A) fisherman's name;

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

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

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

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

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

16 (G) crew size;

17 (H) gear fished;

18 (I) waterbody fished;

19 (J) species landed;

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

22 (L) disposition of species;

23 (M) transaction number;

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

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

26 (P) lease number, if applicable;

27 (Q) bottom type, if applicable; and

28 (R) shellfish harvest area, if ~~applicable~~ applicable;

29 (2) to fail to provide to the Division a Trip Ticket Submittal/Transaction form indicating the number of
30 transactions that occurred during the previous month;

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

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

37 (A) initiate electronic file transfer of trip tickets; and

- (B) continue to report by electronic file transfer until the dealer no longer holds a fish dealer license with finfish or consolidated categories;
- (5) to fail to use software or web-based utilities authorized by the Division when reporting electronically;~~and~~
- (6) to fail to keep all trip tickets and all supporting documentation for each transaction including receipts, checks, bills of lading, records, electronic files, and accounts for a period of not less than three ~~years-years~~;
- (7) to fail to submit quota monitoring logs in accordance with 15A NCAC 03O .0503 if the licensed fish dealer holds a dealer permit for monitoring fisheries under a quota or allocation; and
- (8) to fail to keep all quota monitoring logs including electronic files for a period of not less than three years.
- (b) It shall be unlawful for a seller licensed under G.S. 113, Article 14A or donor to fail to provide to the fish dealer, at the time of transaction, the following:
- (1) a current and valid license or permit to sell the type of fish being offered and if a vessel is used, the Commercial Fishing Vessel Registration; and
- (2) complete and accurate information on harvest method and area of catch and other information required by the Division, in accordance with G.S. 113-168.2 and G.S. 113-169.3.
- (c) It shall be unlawful to transport fish without having ready at hand for inspection a bill of consignment, bill of lading, or other shipping documentation provided by the shipping dealer showing the following items:
- (1) name of the consignee;
- (2) name of the shipper;
- (3) date of the shipment;
- (4) name of fish being shipped; and
- (5) quantity of each fish being shipped.
- In the event the fisherman taking the fish is also a licensed fish dealer and ships from the point of landing, all shipping records shall be recorded at the point of landing. Fishermen who transport their fish directly to licensed fish dealers are exempt from this Paragraph.
- (d) It shall be unlawful to export fish landed in the State in a commercial fishing operation without a North Carolina licensed fish dealer completing all the recordkeeping requirements in G.S. 113-168.2(i).
- (e) It shall be unlawful to offer for sale fish purchased from a licensed fish dealer without having ready at hand for inspection by Marine Fisheries inspectors or other agents of the Fisheries Director written documentation of purchase showing the following items:
- (1) name of the licensed fish dealer;
- (2) name of the purchaser;
- (3) date of the purchase;
- (4) name of fish purchased; and
- (5) quantity of each fish purchased.

(f) It shall be unlawful for a holder of a Fish Dealer License to have fish in possession at a licensed location without written documentation from a licensed fish dealer or a completed North Carolina trip ticket to show the quantity and origin of all fish.

History Note: Authority G.S. 113-134; 113-168.2; 113-168.3; 113-169.3; 113-170; 113-170.3; 113-170.4; 113-182; 143B-289.52;
Eff. March 1, 1994;
Recodified from 15A NCAC 3I .0014 Eff. December 17, 1996;
Temporary Amendment Eff. July 1, 1999;
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Readopted Eff. March 15, ~~2023~~, 2023;
Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).

1 15A NCAC 03O .0201 is amended as published in 40:03 NCR 301-302 as follows:

2
3 **SECTION .0200 – SHELLFISH LEASES AND FRANCHISES**
4

5 **15A NCAC 03O .0201 STANDARDS AND REQUIREMENTS FOR SHELLFISH LEASES AND**
6 **FRANCHISES**

7 (a) For the purpose of this Section:

- 8 (1) "any acres under a shellfish lease" shall include a water column amendment superjacent to a
9 franchise.
10 (2) "application for additional shellfish lease acreage" shall include a water column amendment
11 application to an existing shellfish bottom lease or to a franchise when the franchise holder also
12 holds a shellfish bottom lease.
13 ~~(1)(3)~~ "extensive shellfish culture" shall mean shellfish grown on the bottom without the use of cages,
14 racks, bags, or floats.
15 ~~(2)(4)~~ "intensive shellfish culture" shall mean shellfish grown on the bottom or in the water column using
16 cages, racks, bags, or floats.
17 ~~(3)(5)~~ "plant" shall mean providing evidence of purchasing shellfish seed or planting shellfish seed or
18 authorized cultch materials on a shellfish ~~lease or franchise lease.~~
19 ~~(4)(6)~~ "produce" shall mean the culture and harvest of oysters, clams, scallops, or mussels from a shellfish
20 lease ~~or franchise~~ and lawful sale of those shellfish to the public at large or to a licensed shellfish
21 dealer.

22 (b) All areas of the public bottom underlying Coastal Fishing Waters shall meet the following standards and
23 requirements, in addition to the standards in G.S. 113-202, in order to be deemed suitable for leasing for shellfish
24 aquaculture purposes:

- 25 (1) the proposed shellfish lease area shall not contain a "natural shellfish bed," as defined in G.S. 113-
26 201.1, or have 10 bushels or more of shellfish per acre;
27 (2) the proposed shellfish lease area shall not be closer than 250 feet from a developed shoreline or a
28 water-dependent shore-based structure, except no minimum setback is required when the area to be
29 leased borders the applicant's property, the property of "riparian owners" as defined in G.S. 113-
30 201.1 who have consented in a notarized statement, or is in an area bordered by undeveloped
31 shoreline. For the purpose of this Rule, a water-dependent shore-based structure shall include docks,
32 wharves, boat ramps, bridges, bulkheads, and groins;
33 (3) the proposed shellfish lease area shall not be closer than 250 feet to an existing lease;
34 (4) the proposed shellfish lease area, either alone or when considered cumulatively with other existing
35 lease areas in the vicinity, shall not interfere with navigation or with existing, traditional uses of the
36 area; and
37 (5) the proposed shellfish lease area shall not be less than one-half acre and shall not exceed 10 acres.

(c) To be suitable for leasing for shellfish aquaculture purposes, shellfish water column leases superjacent to a shellfish bottom lease shall meet the standards in G.S. 113-202.1 and shellfish water column leases superjacent to franchises shall meet the standards in G.S. 113-202.2.

(d) Shellfish bottom leases ~~and franchises~~ granted or renewed on or before July 1, 2019 and not renewed after July 1, 2019 shall be terminated unless they meet the following requirements, in addition to the standards in and as allowed by G.S. 113-202:

- (1) they produce 10 bushels of shellfish per acre per year; and
- (2) they are planted with 25 bushels of seed shellfish per acre per year or 50 bushels of cultch per acre per year, or a combination of cultch and seed shellfish where the percentage of required cultch planted and the percentage of required seed shellfish planted totals at least 100 percent.

(e) Shellfish water column leases granted or renewed on or before July 1, 2019 and not renewed after July 1, 2019 shall be terminated unless they meet the following requirements, in addition to the standards in and as allowed by G.S. 113-202.1 and G.S. 113-202.2:

- (1) they produce 40 bushels of shellfish per acre per year; or
- (2) the underlying bottom is planted with 100 bushels of cultch or seed shellfish per acre per year.

(f) Shellfish bottom leases ~~and franchises~~ granted or renewed after July 1, 2019 shall be terminated unless they meet the following requirements, in addition to the standards in and as allowed by G.S. 113-202:

- (1) they produce a minimum of 20 bushels of shellfish per acre averaged over the previous three-year period beginning in year five of the shellfish bottom ~~lease or franchise; lease; or~~
- (2) for intensive culture bottom operations, the holder of the shellfish bottom ~~lease or franchise~~ provides evidence of purchasing a minimum of 23,000 shellfish seed per acre annually and for extensive culture bottom operations, the holder of the ~~lease or franchise~~ plants a minimum of 15,000 shellfish seed per acre per year.

(g) Shellfish water column leases granted or renewed after July 1, 2019 shall be terminated unless they meet the following requirements, in addition to the standards in and as allowed by G.S. 113-202.1 and 113-202.2:

- (1) they produce a minimum of 50 bushels of shellfish per acre averaged over the previous three-year period beginning in year five of the shellfish water column lease; or
- (2) the holder of the shellfish water column lease provides evidence of purchasing a minimum of 23,000 shellfish seed per acre annually.

(h) The following standards shall be applied to determine compliance with Paragraphs (d), (e), (f), and (g) of this Rule:

- (1) only shellfish planted or produced as defined in Paragraph (a) of this Rule shall be included in the annual shellfish ~~lease and franchise~~ production reports required by Rule .0207 of this Section.
- (2) if more than one shellfish ~~lease or franchise~~ is used in the production of shellfish, one of the ~~leases or franchises~~ used in the production of the shellfish shall be designated as the producing ~~lease or franchise~~ for those shellfish. Each bushel of shellfish shall be produced by only one shellfish ~~lease~~

1 ~~or franchise-lease.~~ Shellfish transplanted between shellfish leases ~~or franchises~~ shall be credited as
2 planting effort on only one ~~lease or franchise-lease.~~

3 (3) production information and planting effort information shall be compiled and averaged separately
4 to assess compliance with the requirements of this Rule. Shellfish bottom leases ~~and franchises~~
5 granted on or before July 1, 2019 shall meet both the production requirement and the planting effort
6 requirement within the dates set forth in G.S. 113-202.1 and G.S. 113-202.2 to be deemed in
7 compliance. Shellfish bottom leases ~~and franchises~~ granted after July 1, 2019 and shellfish water
8 column leases shall meet either the production requirement or the planting effort requirement within
9 the dates set forth in G.S. 113-202.1 and G.S. 113-202.2 to be deemed in compliance.

10 (4) all bushel measurements shall be in standard U.S. bushels.

11 (5) in determining production ~~and marketing~~ averages and planting effort averages for information not
12 reported in bushel measurements, the following conversion factors shall be used:

13 (A) 300 oysters, 400 clams, or 400 scallops equal one bushel; and
14 (B) 40 pounds of scallop shell, 60 pounds of oyster shell, 75 pounds of clam shell, or 90 pounds
15 of fossil stone equal one bushel.

16 (6) production rate averages shall be computed irrespective of transfer of the shellfish ~~lease or~~
17 ~~franchise-lease.~~ The production rates shall be averaged for the following situations using the time
18 periods described:

19 (A) for an initial shellfish bottom ~~lease or franchise-lease,~~ over the consecutive full calendar
20 years remaining on the bottom lease ~~or franchise~~ contract after December 31 following the
21 second anniversary of the initial bottom ~~lease or franchise-lease;~~

22 (B) for a renewal shellfish bottom ~~lease or franchise-lease,~~ over the consecutive full calendar
23 years beginning January 1 of the final year of the previous bottom lease ~~or franchise~~ term
24 and ending December 31 of the final year of the current bottom lease ~~or franchise~~ contract;

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

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

30 (7) in the event that a portion of an existing shellfish lease ~~or franchise~~ is obtained by a new lease ~~or~~
31 ~~franchise~~ holder, the production history for the portion obtained shall be a percentage of the
32 originating lease ~~or franchise~~ production equal to the percentage of the area of lease ~~or franchise~~ site
33 obtained to the area of the originating ~~lease or franchise-lease.~~

34 (i) ~~To~~ Consistent with G.S. 113-202, G.S. 113-202.1, and G.S. 113-202.2, to be deemed eligible ~~for by the Secretary~~
35 to hold additional shellfish lease acreage, persons holding any acres under a shellfish lease ~~or franchise~~ shall meet the
36 following requirements established in: at the time of submitting a shellfish lease application for additional shellfish
37 lease acreage:

- (1) Paragraphs (d), (e), (f), and (g) of this Rule;
- (2) Rule .0204 of this Section; and
- (3) Rule .0503(a) of this Subchapter.

History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-206; 143B-289.52; S.L. 2019-37, s. 3; S.L. 2024-32, s. 5.(a);
Eff. January 1, 1991;
Amended Eff. May 1, 1997; March 1, 1995; March 1, 1994; September 1, 1991;
Temporary Amendment Eff. October 1, 2001;
Amended Eff. May 1, 2017; October 1, 2008; April 1, 2003;
Readopted Eff. August 23, 2022;
Amended Eff. (Pending legislative review pursuant to S.L. 2019-37, Section 3, as amended by S.L. 2024-32, Section 5.(a)); March 24, 2025.

1 15A NCAC 03O .0207 is amended as published in 40:03 NCR 303 as follows:

2
3 **15A NCAC 03O .0207 SHELLFISH LEASE AND FRANCHISE PRODUCTION REPORTS**

4 (a) The holder or holders of a shellfish lease ~~or franchise~~ shall provide an annual production report to the Division of
5 Marine Fisheries by March 31 of each year showing the amounts of material planted, purchased, and harvested; where
6 and when the material was obtained; and when the material was planted in accordance with Rules .0201 and .0202 of
7 this Section. The report shall include documentation of purchased seed in accordance with Rule .0201 of this Section.

8 (b) The Division shall provide reporting forms annually to each shellfish lease ~~or franchise~~ holder to be used for the
9 annual production report.

10 (c) Failure by the holder or holders of the shellfish lease ~~or franchise~~ to submit the required annual production report
11 or filing an incomplete report or a report containing false information constitutes grounds for termination as set forth
12 in Rule .0208 of this Section.

13
14 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; ~~113-206;~~*
15 *143B-289.52;*
16 *Eff. January 1, 1991;*
17 *Amended Eff. September 1, 1991;*
18 *Readopted Eff. June 1, ~~2022-2022;~~*
19 *Amended Eff. (Pending legislative review of 15A NCAC 03O .0201).*

1 15A NCAC 03O .0208 is amended as published in 40:03 NCR 303 as follows:

2
3 **15A NCAC 03O .0208 TERMINATION PROCEDURES FOR SHELLFISH LEASES AND FRANCHISES**

4 (a) Procedures for termination of shellfish leases ~~and franchises~~ are provided in G.S. 113-202.

5 (b) Consistent with G.S. 113-202(11) and G.S. 113-201(b), a shellfish lease ~~or franchise~~ holder that failed to meet the
6 requirements in G.S. 113-202, G.S. 113-202.1, G.S. 113-202.2, or the rules of this Section that govern a determination
7 of failure to utilize the lease on a continuing basis for the commercial production of shellfish may be granted a single
8 extension period of no more than two years per contract period upon a showing of hardship by written notice to the
9 Fisheries Director or the Fisheries Director's designee received prior to the expiration of the lease term that documents
10 one of the following occurrences caused or will cause the lease ~~or franchise~~ holder to fail to meet lease requirements:

- 11 (1) death, illness, or incapacity of the shellfish lease ~~or franchise~~ holder or the holder's immediate family
12 as defined in G.S. 113-168 that prevented or will prevent the lease ~~or franchise~~ holder from working
13 the lease;
- 14 (2) damage to the shellfish lease ~~or franchise~~ from hurricanes, tropical storms, or other severe weather
15 events recognized by the National Weather Service;
- 16 (3) shellfish mortality caused by disease, natural predators, or parasites; or
- 17 (4) damage to the shellfish lease ~~or franchise~~ from a manmade disaster that triggers a state emergency
18 declaration or federal emergency declaration.

19 (c) In the case of hardship as described in Paragraph (b) of this Rule, the notice shall state the shellfish lease ~~or~~
20 ~~franchise~~ number. In the case of hardship as described in Subparagraph (b)(1) of this Rule, the notice shall also state
21 the name of the shellfish lease ~~or franchise~~ holder or immediate family member and either the date of death or the date
22 of the illness or incapacity. The Fisheries Director may require a doctor's verification that the illness or incapacity
23 occurred. In the case of hardship as described in Subparagraphs (b)(2) through (b)(4) of this Rule, the notice shall also
24 include documentation of damage to the shellfish ~~lease or franchise~~ lease. Written notice and supporting
25 documentation shall be addressed to the Director of the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box
26 769, Morehead City, NC 28557.

27
28 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-205; ~~113-206;~~*
29 *143B-289.52;*

30 *Eff. January 1, 1991;*

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

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

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

34 *Readopted Eff. June 1, ~~2022-2022~~;*

35 *Amended Eff. (Pending legislative review of 15A NCAC 03O .0201).*

1 15A NCAC 03O .0210 is amended as published in 40:03 NCR 303 as follows:

2
3 **15A NCAC 03O .0210 STANDARDS AND REQUIREMENTS FOR FRANCHISES**

4 (a) A franchise holder desiring a permit from the Division of Marine Fisheries to conduct shellfish aquaculture on
5 their franchise shall submit a Shellfish Management Plans, Plan, prepared in accordance with the standards for a
6 Shellfish Lease Management Plan in Rule .0202 of this Section, shall be provided to the Division of Marine Fisheries
7 within 30 days following formal recognition of a valid chain of title and at ten-year intervals thereafter.

8 (b) The Shellfish Management Plan requirements in Paragraph (a) of this Rule and all other requirements and
9 conditions of this Section affecting management of franchises shall apply to all valid franchises.

10 ~~(c) Commercial production requirements for franchises shall be identical to that required for shellfish bottom leases~~
11 ~~in accordance with Rules .0201 and .0207 of this Section averaged over the most recent three year period after January~~
12 ~~1 following the second anniversary of the dates of recognition of claims as valid franchises and continuing throughout~~
13 ~~the term of Shellfish Management Plans required in Paragraph (a) of this Rule.~~

14
15 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.2; 113-205; 113-206; 143B-289.52;*
16 *Eff. January 1, 1991;*
17 *Amended Eff. October 1, 2008; September 1, 1991;*
18 *Readopted Eff. June 1, 2022-2022;*
19 *Amended Eff. (Pending legislative review of 15A NCAC 03O .0201).*

1 15A NCAC 03O .0501 is amended as published in 40:03 NCR 303-305 as follows:

2
3 **SECTION .0500 - PERMITS**
4

5 **15A NCAC 03O .0501 PROCEDURES AND REQUIREMENTS TO OBTAIN PERMITS**

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

- 8 (1) the full name, physical address, mailing address, date of birth, and signature of the applicant on the
9 application and, if the applicant is not appearing before a license agent or the designated Division
10 of Marine Fisheries ~~contact, the applicant's signature on the application shall be notarized; contact;~~
11 (2) a current picture identification of the applicant, responsible party, or person holding a power of
12 attorney, acceptable forms of which shall include driver's license, North Carolina Identification card
13 issued by the North Carolina Division of Motor Vehicles, military identification card, resident alien
14 card (green card), or passport or, if applying by mail, a copy thereof;
15 (3) for permits that require a list of designees, the full names and dates of birth of the designees of the
16 applicant who will be acting pursuant to the requested permit;
17 (4) certification that the applicant and his or her designees do not have four or more ~~marine or estuarine~~
18 ~~resource~~ convictions for violation of any provision of Subchapter 113 of the North Carolina General
19 Statutes under the authority of the Marine Fisheries Commission or any rule adopted by the Marine
20 Fisheries Commission pursuant to Subchapter 113 during the previous three years; and
21 (5) for permit applications from business entities:
22 (A) the business name;
23 (B) the type of business entity: corporation, "educational institution" as defined in 15A NCAC
24 03I .0101, limited liability company (LLC), partnership, or sole proprietorship;
25 (C) the name, address, and phone number of responsible party and other identifying
26 information required by this Subchapter or rules related to a specific permit;
27 (D) for a corporation applying for a permit in a corporate name, the current articles of
28 incorporation and a current list of corporate officers;
29 (E) for a partnership that is established by a written partnership agreement, a current copy of
30 such agreement shall be provided when applying for a permit; and
31 (F) for business entities other than corporations, copies of current assumed name statements if
32 filed with the Register of Deeds office for the corresponding county and copies of current
33 business privilege tax certificates, if applicable.

34 (b) A permittee shall hold a valid:

- 35 (1) Recreational Commercial Gear License, Standard Commercial Fishing License, or Retired Standard
36 Commercial Fishing License to hold an Estuarine Gill Net Permit.
37 ~~(+)(2)~~ Standard or Retired Standard Commercial Fishing License ~~in order~~ to hold:

- 1 (A) an Atlantic Ocean Striped Bass Commercial Gear Permit;
2 (B) a Permit for Weekend Trawling for Live Shrimp; or
3 (C) a Pound Net Set Permit.

4 The master designated on the single vessel corporation Standard Commercial Fishing License is the
5 individual required to hold the Permit for Weekend Trawling for Live Shrimp.

- 6 ~~(2)~~(3) Fish Dealer License in the proper category ~~in order~~ to hold dealer permits for monitoring fisheries
7 under a quota or allocation for that category.

8 (c) An individual who is assigned a valid Standard Commercial Fishing License with applicable endorsements shall
9 be eligible to hold any permit that requires a Standard Commercial Fishing License except a Pound Net Set Permit.

10 (d) If mechanical methods to take shellfish are used, a permittee and ~~his~~ a permittee's designees shall hold a valid
11 Standard or Retired Standard Commercial Fishing License with a Shellfish Endorsement ~~in order~~ for a permittee to
12 hold a:

- 13 (1) Depuration Permit;
14 (2) Permit to Transplant Oysters from Seed Oyster Management Areas; or
15 (3) Permit to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises, except as
16 provided in G.S. 113-169.2.

17 (e) If mechanical methods to take shellfish are not used, a permittee and ~~his~~ a permittee's designees shall hold a valid
18 Standard or Retired Standard Commercial Fishing License with a Shellfish Endorsement or a Shellfish License ~~in~~
19 ~~order~~ for a permittee to hold a:

- 20 (1) Depuration Permit; or
21 (2) Permit to Transplant Oysters from Seed Oyster Management Areas.

22 (f) Aquaculture Operation Permit and Aquaculture Collection Permit:

- 23 (1) A permittee shall hold a valid Aquaculture Operation Permit issued by the Fisheries Director to hold
24 an Aquaculture Collection Permit.
25 (2) The permittee or designees shall hold appropriate licenses from the Division of Marine Fisheries for
26 the species harvested and the gear used under the Aquaculture Collection Permit.

27 (g) Atlantic Ocean Striped Bass Commercial Gear Permit:

- 28 (1) An applicant for an Atlantic Ocean Striped Bass Commercial Gear Permit shall declare one of the
29 following types of gear for an initial permit and at intervals of three consecutive license years
30 thereafter:

- 31 (A) a gill net;
32 (B) a trawl net; or
33 (C) a beach seine.

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

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

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

(i) A permit shall be issued only after the application is deemed complete and the applicant certifies his or her agreement to abide by the permit general and specific conditions established under 15A NCAC 03J .0501 and .0505, 03K .0103 and .0107, Rule .0211 of this Subchapter, and Rules .0502 and .0503 of this Section, as applicable to the requested permit. The permittee's signature on the initial permit general conditions form shall be notarized. In the case of a person holding more than one permit, the permittee's signature on the permit general conditions form shall be notarized for the initial permit issued but shall not be required for subsequent permits.

(j) For permit renewals, the permittee's signature on the specific condition form shall certify all information is true and accurate. Notarized signatures on renewal permits shall not be required.

~~(j)(k)~~ In determining whether to issue, modify, or renew a permit, the Fisheries Director or his or her agent shall evaluate the following factors:

- (1) potential threats to public health or marine and estuarine resources regulated by the Marine Fisheries Commission;
- (2) whether the permit application meets the requirements for the permit; and
- (3) whether the applicant has a history of eight or more violations of any provision of Subchapter 113 of the North Carolina General Statutes under the authority of the Marine Fisheries Commission or any rule adopted by the Marine Fisheries Commission pursuant to Subchapter 113 within 10 years.

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

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

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

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

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

(p) Permit applications shall be available at ~~all the Division of Marine Fisheries offices.~~ Fisheries; a list of permits and the location where each permit application is available is on the Division's website at <https://deq.nc.gov/dmf-permit-info>.

History Note: Authority G.S. 113-134; 113-169.1; 113-169.2; 113-169.3; 113-182; 113-210; 143B-289.52; Temporary Adoption Eff. September 1, 2000; May 1, 2000; Eff. April 1, 2001; Temporary Amendment Eff. October 1, 2001; Amended Eff. May 1, 2017; May 1, 2015; April 1, 2011; April 1, 2009; July 1, 2008; December 1, 2007; September 1, 2005; April 1, 2003; August 1, 2002; Readopted Eff. April 1, 2019; Amended Eff. March 24, ~~2025~~ 2025; Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).

1 15A NCAC 03O .0502 is amended as published in 40:03 NCR 305-306 as follows:

2
3 **15A NCAC 03O .0502 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 shall be unlawful to:

7 (A) operate under the permit except in areas, at times, and under conditions specified on the
8 permit.

9 (B) operate under a permit without having the permit or copy thereof in possession of the
10 permittee or the permittee's designees at all times of operation and the permit or copy
11 thereof shall be ready at hand for inspection, except for a Pound Net Set Permit.

12 (C) operate under a permit without having a current picture identification in possession and
13 ready at hand for inspection.

14 (D) refuse to allow inspection and sampling of a permitted activity by an agent of the Division
15 of Marine Fisheries.

16 (E) fail to provide complete and accurate information requested by the Division in connection
17 with the permitted activity.

18 (F) provide false information in the application for initial issuance, renewal, or transfer of a
19 permit.

20 (G) hold a permit issued by the Fisheries Director if not eligible to hold any license required as
21 a condition for that permit as stated in Rule .0501 of this Section.

22 (H) fail to provide reports within the timeframe required by the specific permit conditions.

23 (I) fail to keep such records and accounts as required by the rules in this Chapter for
24 determination of conservation policy, equitable and efficient administration and
25 enforcement, or promotion of commercial or recreational fisheries.

26 (J) assign or transfer permits issued by the Fisheries Director, except for a Pound Net Set
27 Permit as authorized by 15A NCAC 03J .0504.

28 (K) fail to participate in and provide accurate information for data collection in accordance
29 with 15A NCAC 03I .0113 and for survey programs administered by the Division.

30 (2) the Fisheries Director or the Fisheries Director's agent may, by conditions of the permit, impose on
31 a commercial fishing operation and for recreational purposes any of the following restrictions for
32 the permitted purposes:

33 (A) specify time;

34 (B) specify area;

35 (C) specify means and methods;

36 (D) specify record keeping and reporting requirements;

37 (E) specify season;

- (F) specify species;
- (G) specify size;
- (H) specify quantity;
- (I) specify disposition of resources;
- (J) specify marking requirements; and
- (K) specify harvest conditions.

(3) unless specifically stated as a condition on the permit, all statutes, rules, and proclamations shall apply to the permittee and the permittee's designees.

History Note: Authority G.S. 113-134; 113-169.1; 113-170.2; 113-170.3; 113-182; 113-210; 143B-289.52; Temporary Adoption Eff. May 1, 2000; Eff. April 1, 2001; Amended Eff. April 1, 2009; September 1, 2005; Readopted Eff. March 15, ~~2023~~2023; Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).

1 15A NCAC 03O .0503 is amended as published in 40:03 NCR 306-310 as follows:

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

4 (a) Aquaculture Operation Permit and Aquaculture Collection Permit:

- 5 (1) It shall be unlawful to conduct aquaculture operations using marine and estuarine resources without
6 first securing an Aquaculture Operation Permit from the Fisheries Director.
- 7 (2) It shall be unlawful:
- 8 (A) to take marine and estuarine resources from Coastal Fishing Waters for aquaculture
9 purposes without first obtaining an Aquaculture Collection Permit from the Fisheries
10 Director;
- 11 (B) to sell or use for any purpose not related to North Carolina aquaculture marine and estuarine
12 resources taken pursuant to an Aquaculture Collection Permit; or
- 13 (C) to fail to submit to the Fisheries Director an annual report, due on December 1 of each year
14 on the form provided by the Division of Marine Fisheries, stating the amount and
15 disposition of marine and estuarine resources collected under authority of an Aquaculture
16 Collection Permit.
- 17 (3) Aquaculture Operation Permits and Aquaculture Collection Permits shall be issued or renewed on
18 a calendar year basis.
- 19 (4) It shall be unlawful to fail to provide the Division with a listing of all designees acting pursuant to
20 an Aquaculture Collection Permit at the time of application.

21 (b) Atlantic Ocean Striped Bass Commercial Gear Permit:

- 22 (1) It shall be unlawful to take striped bass from the Atlantic Ocean in a commercial fishing operation
23 without first obtaining an Atlantic Ocean Striped Bass Commercial Gear Permit.
- 24 (2) It shall be unlawful to obtain more than one Atlantic Ocean Striped Bass Commercial Gear Permit
25 during a license year, regardless of the number of Standard Commercial Fishing licenses, Retired
26 Standard Commercial Fishing licenses, or assignments.

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

29 (d) Coastal Recreational Fishing License Exemption Permit:

- 30 (1) It shall be unlawful for the responsible party seeking exemption from recreational fishing license
31 requirements for eligible individuals to conduct an organized fishing event held in Joint or Coastal
32 Fishing Waters without first obtaining a Coastal Recreational Fishing License Exemption Permit.
- 33 (2) The Coastal Recreational Fishing License Exemption Permit shall only be issued for recreational
34 fishing activity conducted solely for the participation and benefit of one of the following groups of
35 eligible individuals:
- 36 (A) individuals with physical or mental impairment;

- (B) members of the United States Armed Forces and their dependents, upon presentation of a valid military identification card;
- (C) individuals receiving instruction on recreational fishing techniques and conservation practices from employees of state or federal marine or estuarine resource management agencies or instructors affiliated with an educational institution; institution as defined in 15A NCAC 03I .0101(1); and
- (D) disadvantaged youths as set forth in 42 U.S. Code 12511.
- ~~For the purpose of this Paragraph, educational institutions include high schools and other secondary educational institutions.~~
- (3) The Coastal Recreational Fishing License Exemption Permit shall be valid for the date, time, and physical location of the organized fishing event for which the exemption is granted and the duration of the permit shall not exceed one year from the date of issuance.
- (4) The Coastal Recreational Fishing License Exemption Permit shall only be issued if all of the following, in addition to the information required in Rule .0501 of this Section, is submitted to the Fisheries Director, in writing, at least 30 days prior to the event:
- (A) the name, date, time, and physical location of the event;
- (B) documentation that substantiates local, state, or federal involvement in the organized fishing event, if applicable;
- (C) the cost or requirements, if any, for an individual to participate in the event; and
- (D) an estimate of the number of participants.
- (e) Requirements for Dealer-dealer permits for monitoring fisheries under a quota or allocation:
- (1) All species-specific permits listed in Subparagraphs (e)(2) through (e)(6) of this Rule are subject to the requirements of this Paragraph. During the commercial season harvest of a fishery opened by proclamation or rule for the fishery for which a dealer permit for monitoring fisheries under a quota or allocation shall be issued, it shall be unlawful for a fish dealer issued such permit to fail to:
- (A) fax or send via electronic mail submit by electronic means, including electronic mail, fax, or text message, by noon daily, on forms provided by the Division of Marine Fisheries, daily in quota monitoring logs, the previous day's landings for the permitted fishery to the Division. The form shall include the dealer's name, dealer's license number, date the fish were landed, permittee's or designee's signature, date the permittee or designee signed the form, and species-specific information as listed in Parts (e)(2)(A), (e)(3)(A), (e)(4)(A), and (e)(5)(A) of this Rule. If the dealer submits their trip tickets by electronic means, then the dealer shall submit their quota monitoring logs by electronic means. If the dealer is unable to submit by electronic means the required information, the permittee shall call in the previous day's landings to the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-515-5500. Landings for Fridays or Saturdays shall be submitted no later than noon on the following Monday. If the dealer is unable to fax or electronically mail the

- ~~required information, the permittee shall call in the previous day's landings to the Division;~~Monday;
- (B) submit the required form set forth in Part (e)(1)(A) of this Rule to the Division upon request or no later than five days after the close of the ~~season~~harvest in a commercial fishing operation for the fishery permitted;
 - (C) maintain ~~faxes and other~~ related documentation in accordance with 15A NCAC 03I .0114;
 - (D) contact the Division daily, regardless of whether a transaction for the fishery for which a dealer is permitted occurred; and
 - (E) record the permanent dealer identification number on the bill of lading or receipt for each transaction or shipment from the permitted fishery.
- (2) Atlantic Ocean Flounder Dealer Permit:
- (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the previous day's landings of Atlantic Ocean flounder shall include the permit number, number of vessels used for harvest, and ~~the~~ pounds harvested.
 - (B) It shall be unlawful for a fish dealer to allow vessels holding a valid License to Land Flounder from the Atlantic Ocean to land more than 100 pounds of flounder from a single transaction at their licensed location during the open season without first obtaining an Atlantic Ocean Flounder Dealer Permit. The licensed location shall be specified on the Atlantic Ocean Flounder Dealer Permit and only one location per permit shall be allowed.
 - (C) It shall be unlawful for a fish dealer to possess, buy, sell, or offer for sale more than 100 pounds of flounder from a single transaction from the Atlantic Ocean without first obtaining an Atlantic Ocean Flounder Dealer Permit.
- (3) Black Sea Bass North of Cape Hatteras Dealer Permit:
- (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the previous day's landings of black sea bass north of Cape Hatteras shall include the permit number, number of vessels used for harvest, and ~~the~~ pounds harvested.
 - (B) It shall be unlawful for a fish dealer to purchase or possess more than 100 pounds of black sea bass taken from the Atlantic Ocean north of Cape Hatteras (35° 15.0321' N) per day per commercial fishing operation during the open season unless the dealer has a Black Sea Bass North of Cape Hatteras Dealer Permit.
- (4) Estuarine Flounder Dealer Permit:
- (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the previous day's landings of estuarine flounder shall include the permit number, number of vessels used for harvest, pounds harvested, gear category, and management area.
 - (B) It shall be unlawful for a fish dealer to possess, purchase, sell, or offer for sale flounder taken from estuarine waters without first obtaining an Estuarine Flounder Dealer Permit required for specific management purposes for the applicable fisheries and harvest area.

1 ~~(4)~~(5) Spiny Dogfish Dealer Permit:

2 (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the
3 previous day's landings of spiny dogfish shall include the permit number, number of vessels
4 used for harvest, and ~~the~~ pounds harvested.

5 (B) It shall be unlawful for a fish dealer to purchase or possess more than 100 pounds of spiny
6 dogfish per day per commercial fishing operation unless the dealer has a Spiny Dogfish
7 Dealer Permit.

8 ~~(5)~~(6) Striped Bass Dealer Permit:

9 (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the
10 previous day's landings of striped bass shall include the permit number, number of tags
11 used by area, pounds harvested by area, and for the Atlantic Ocean, type of gear used for
12 harvest.

13 (B) It shall be unlawful for a fish dealer to possess, buy, sell, or offer for sale striped bass taken
14 from the following areas without first obtaining a Striped Bass Dealer Permit validated for
15 the applicable harvest area:

16 (i) the Atlantic Ocean;

17 (ii) the Albemarle Sound Management Area as designated in 15A NCAC 03R .0201;
18 or

19 (iii) the Joint and Coastal Fishing Waters of the Central/Southern Management Area
20 as designated in 15A NCAC 03R .0201.

21 (C) No permittee shall possess, buy, sell, or offer for sale striped bass taken from the harvest
22 areas opened by proclamation without having a valid ~~Division of Marine Fisheries issued~~
23 Division-issued tag for the applicable area affixed through the mouth and gill cover or, in
24 the case of striped bass imported from other states, a similar tag that is issued for striped
25 bass in the state of origin. Division striped bass tags shall not be bought, sold, offered for
26 sale, or transferred. Tags shall be obtained ~~at from the Division offices.~~Division; office
27 locations that provide tags can be found on the Division's website at
28 <https://www.deq.nc.gov/stripped-bass-commercial-harvest-tags>. The Division shall specify
29 the quantity of tags to be issued based on historical striped bass landings. It shall be
30 unlawful for the permittee to fail to surrender unused tags to the Division upon request.

31 ~~(f) Horseshoe Crab Biomedical Use Permit:~~

32 ~~(1) It shall be unlawful to use horseshoe crabs for biomedical purposes without first obtaining a permit.~~

33 ~~(2) It shall be unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to~~
34 ~~fail to submit an annual report on the use of horseshoe crabs to the Division of Marine Fisheries,~~
35 ~~due on February 1 of each year. Such reports shall be filed on forms provided by the Division and~~
36 ~~shall include a monthly account of the number of crabs harvested, a statement of percent mortality~~

up to the point of release, the harvest method, the number or percent of males and females, and the disposition of bled crabs prior to release.

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

(f) Estuarine Gill Net Permit:

- (1) It shall be unlawful for an individual to deploy gill nets in Internal Waters, except for runaround, strike, drop, or drift gill nets, without possessing a valid Estuarine Gill Net Permit issued by the Division.
- (2) Estuarine Gill Net Permits shall be issued or renewed by the Division on a calendar year basis. For renewals, any changes in information or supporting documents shall be provided by the permit holder at the time of renewal.
- (3) It shall be unlawful for a permit holder:
- (A) to violate the provisions of any rules or proclamations regarding the conditions set out in the federally issued Endangered Species Act 16 U.S.C. 1539(a)(1)(B) Incidental Take Permits, for the estuarine non-exempt gill net fisheries;
- (B) to refuse or deny Division employees a trip aboard the vessel the permit holder is using or observation from a Division vessel to obtain data or samples in accordance with 15A NCAC 03L.0113;
- (C) and the master and crew members of the boat, to interfere with or obstruct Division employees in the course of obtaining data or samples, which shall include refusal or failure to provide information on fishing gear parameters or to relinquish any captured sturgeon or sea turtle to Division employees;
- (D) to avoid or mislead Division employees by providing incorrect information on fishing activity;
- (E) to fail to provide a valid phone number at which the Estuarine Gill Net Permit holder can be reached, return phone calls, or answer text messages from the Division, or fail to notify the Division of a phone number change within 14 calendar days of such change;
- (F) to fail to comply with all observer notification system or call-in requirements set out by permit conditions, proclamations, or rules; and
- (G) to fail to report to the Division any incidental take of sea turtle or sturgeon within 24 hours.

(g) Permit for Weekend Trawling for Live Shrimp:

- (1) It shall be unlawful to take shrimp with trawls from 9:00 p.m. on Friday through 12 noon on Saturday without first obtaining a Permit for Weekend Trawling for Live Shrimp.
- (2) It shall be unlawful for a holder of a Permit for Weekend Trawling for Live Shrimp to use trawls from 12:01 p.m. on Saturday through 4:59 p.m. on Sunday.
- (3) It shall be unlawful for a permit holder during the timeframe specified in Subparagraph (g)(1) of this Rule to:
- (A) use trawl nets to take live shrimp except from areas open to the harvest of shrimp with trawls;
 - (B) take shrimp with trawls that have a combined headrope length of greater than 40 feet in Internal Coastal Waters;
 - (C) possess more than one gallon of dead shrimp (heads on) per trip;
 - (D) fail to have a functioning live bait tank or a combination of multiple functioning live bait tanks, with aerators or circulating water, with a minimum combined tank capacity of 50 gallons; or
 - (E) fail to call or email the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-515-5500 prior to each weekend use of the permit, specifying activities and location. Calls shall be directed to the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-515-5500 and emails shall be sent to the email address provided in the permit specific conditions.
- (h) Pound Net Set Permit: The holder of a Pound Net Set Permit shall follow the Pound Net Set Permit conditions as set forth in 15A NCAC 03J .0505.
- (i) Scientific or Educational Activity Permit:
- (1) It shall be unlawful for institutions or ~~agencies or organizations~~ seeking exemptions from license, rule, proclamation, or statutory requirements to collect, hold, culture, or exhibit for scientific or educational purposes any marine or estuarine species without first obtaining a Scientific or Educational Activity Permit.
 - (2) The Scientific or Educational Activity Permit shall only be issued for collection methods and possession allowances approved by the ~~Division of Marine Fisheries~~ Division.
 - (3) The Scientific or Educational Activity Permit shall only be issued for ~~approved~~ activities conducted by or under the direction of ~~Scientific or Educational institutions~~ educational institutions, nongovernmental conservation organizations, or scientific institutions as defined in 15A NCAC 03I ~~.0101, .0101(1) and approved by the Division.~~
 - (4) It shall be unlawful for the responsible party issued a Scientific or Educational Activity Permit to fail to submit an annual report on collections and, if authorized, sales to the Division, due on December 1 of each year, unless otherwise specified on the permit. The reports shall be filed on forms provided by the Division. Scientific or Educational Activity permits shall be issued on a calendar year basis.

- (5) It shall be unlawful to sell marine or estuarine species taken under a Scientific or Educational Activity Permit without:
- (A) the required license for such sale;
 - (B) an authorization stated on the permit for such sale; and
 - (C) providing the information required by 15A NCAC 03I .0114 if the sale is to a licensed fish dealer.
- (6) It shall be unlawful to fail to provide the Division with a list of all designees acting under a Scientific or Educational Activity Permit at the time of application.
- (7) The permittee or designees utilizing the permit shall call or email the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-515-5500 no later than 24 hours prior to use of the permit, specifying activities and location. Calls shall be directed to the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-515-5500 and emails shall be sent to the email address provided in the permit specific conditions.
- (j) Shellfish Lease Restoration Permit:
- (1) It shall be unlawful to transport shellfish cultivated on a shellfish lease or franchise to a restoration site without first obtaining a Shellfish Lease Restoration Permit.
 - (2) The Shellfish Lease Restoration Permit shall only be issued for approved activities associated with a shellfish lease or franchise.
 - (3) It shall be unlawful to harvest shellfish under a Shellfish Lease Restoration Permit without being recorded on a trip ticket through a certified shellfish dealer as set forth in 15A NCAC 03I .0114.
 - (4) It shall be unlawful for the permittee or permit designee to fail to maintain a record of all shellfish transported for restoration purposes and to fail to submit the record annually, unless otherwise specified on the permit.
 - (5) The permittee or designees utilizing the permit shall call the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-515-5500 no later than 24 hours prior to use of the permit, specifying activities, location, and product size.
- (k) Shellfish Relocation Permit:
- (1) It shall be unlawful, without first obtaining a Shellfish Relocation Permit, to relocate shellfish from an area designated by the Fisheries Director as a site where shellfish would otherwise be destroyed due to maintenance dredging, construction, or other development activities.
 - (2) The Shellfish Relocation Permit shall be issued by the Fisheries Director only as part of a Coastal Area Management Act Permit issued in accordance with G.S. 113A-118 and G.S. 113-229 for development projects based on the status of shellfish resources in the development area, availability of Division employees to supervise the relocation activity, and if the Division has verified that there is no other avoidance or minimization measure that can be incorporated.
- ~~(l)~~ Under Dock Oyster Culture Permit:

- (1) It shall be unlawful to cultivate oysters in containers under docks for personal consumption without first obtaining an Under Dock Oyster Culture Permit.
- (2) An Under Dock Oyster Culture Permit shall be issued only in accordance with provisions set forth in G.S. 113-210(c).
- (3) The applicant shall complete and submit an examination, with a minimum of 70 percent correct answers, based on an educational package provided by the Division of Marine Fisheries pursuant to G.S. 113-210(j), demonstrating the applicant's knowledge of:
 - (A) the application process;
 - (B) permit criteria;
 - (C) basic oyster biology and culture techniques;
 - (D) shellfish harvest area closures due to pollution;
 - (E) safe handling practices;
 - (F) permit conditions; and
 - (G) permit revocation criteria.
- (4) Action by an Under Dock Oyster Culture Permit holder to encroach on or usurp the legal rights of the public to access public trust resources in Coastal Fishing Waters shall result in permit revocation.

History Note: Authority G.S. 113-134; 113-169.1; 113-169.2; 113-169.3; 113-182; 113-210; 143B-289.52; Temporary Adoption Eff. September 1, 2000; August 1, 2000; May 1, 2000; Eff. April 1, 2001; Amended Eff. May 1, 2017; May 1, 2015; April 1, 2014; April 1, 2009; July 1, 2008; January 1, 2008; September 1, 2005; October 1, 2004; August 1, 2004; August 1, 2002; Readopted Eff. April 1, 2019; Amended Eff. March 24, ~~2025~~ 2025; Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).