

Burgos, Alexander N

Subject: FW: WRC/MFC Joint-Jurisdiction Rules

From: Duke, Lawrence <lawrence.duke@oah.nc.gov>

Sent: Tuesday, August 16, 2022 5:58 PM

To: Everett, Jennifer <jennifer.everett@ncdenr.gov>; Ruhlman, Carrie A <carrie.ruhlman@ncwildlife.org>

Cc: Pekrul, Ashley M <ashley.pekrul@ncwildlife.org>; Blum, Catherine <catherine.blum@ncdenr.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Ruhlman, Carrie A <carrie.ruhlman@ncwildlife.org>; Klibansky, Lara <Lara.Klibansky@ncdenr.gov>; Maier, Michael S <shawn.maier@ncdenr.gov>; Reynolds, Phillip T <preynolds@ncdoj.gov>

Subject: RE: WRC/MFC Joint-Jurisdiction Rules

Jennifer and Carrie,

These rule sets look good for both Wildlife Resources and Marine Fisheries. Thank you for making requested changes. I will be recommending approval.

Lawrence Duke

Counsel, NC Rules Review Commission

Office of Administrative Hearings

(984) 236-1938

Burgos, Alexander N

Subject: FW: WRC/MFC Joint-Jurisdiction Rules
Attachments: 15A NCAC 10C .0101.docx; 15A NCAC 10C .0102.docx; 15A NCAC 10C .0103.docx; 15A NCAC 10C .0104.docx; 15A NCAC 10C .0106.docx; 15A NCAC 10C .0107.docx; 15A NCAC 10C .0108.docx; 15A NCAC 10C .0109.docx; 15A NCAC 10C .0110.docx; 15A NCAC 10C .0111.docx; WRC.10C - MFC.03Q - 08.2022 - Change Requests_MFCandWRCResponses_Final.docx

From: Ruhlman, Carrie A <carrie.ruhlman@ncwildlife.org>

Sent: Thursday, August 11, 2022 7:41 PM

To: Duke, Lawrence <lawrence.duke@oah.nc.gov>; Everett, Jennifer <jennifer.everett@ncdenr.gov>

Cc: Pekrul, Ashley M <ashley.pekrul@ncwildlife.org>; Blum, Catherine <catherine.blum@ncdenr.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Klibansky, Lara <Lara.Klibansky@ncdenr.gov>; Waters, Christian T <christian.waters@ncwildlife.org>

Subject: RE: WRC/MFC Joint-Jurisdiction Rules

Lawrence,

WRC rules and MFC/WRC responses to your technical change requests are attached. Please let me know if you have any questions.

Carrie Ruhlman

N.C. Wildlife Resources Commission
Office of Conservation Policy & Analysis
Mailing Address: 1701 Mail Service Center
Raleigh, North Carolina 27699-1701
Office: 919.707.0011 // Cell: 919.606.2241

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission / Marine Fisheries Commission

RULE CITATION: 15A NCAC 10C .0101 / 15A NCAC 03Q .0101

DEADLINE FOR RECEIPT: August 11, 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:

- *This is not a rule and will be objected to on this ground. Please refer to G.S. 150B-2(8a) for the definition of “rule”, particularly (8a) (a), (c), and (g).*

MFC response: The MFC respectfully disagrees with counsel’s assessment that 15A NCAC 10C .0101 / 15A NCAC 03Q .0101 is not a rule. The rule is not merely a nonbinding interpretative statement or a statement concerning only the internal management of an agency or group of agencies. This rule speaks to the jurisdictional agreement between the two commissions and provides that the rules are to be adopted jointly and can be enforced by officers of either commission. The jurisdictional agreement represented in .0101 is not merely an internal understanding between the two commissions, as it directly impacts the regulated community. This rule provides the framework by which rules of the Marine Fisheries Commission, the Wildlife Resources Commission, or both, through the promulgation of joint rules, apply to a person fishing in joint waters. Finally, this rule explicitly preserves the jurisdiction of the respective commissions for any matters not specifically addressed in these rules.

WRC response: This rule cannot be fixed without substantial changes to content. Technical changes requested below have been incorporated.

Regardless of whether or not it is a rule, please fix the following:

- *WRC: please see MFC’s version, which includes the Subchapter and Section headings. Please correct this formatting.*

MFC response: N/A

WRC response: completed

- *Add an oxford comma after “inland fishing waters” in the first sentence.*

MFC response: completed

WRC response: completed

Lawrence R. Duke
Commission Counsel
Date submitted to agency: August 3, 2022

- *For: “In addition to the classification of the waters of the state [capitalize State][add comma here for clarity] these joint rules...”*

MFC response: completed. Also added “fishing” in “joint fishing waters”, consistent with G.S. § 113-129 (10a) (lines 11 and 13).

WRC response: completed; added “fishing” in lines 11 and 13; capitalized DMF in line 13

- *WRC: please put your History Note, Statutory Authority in numerological order.*

MFC response: N/A

WRC response: completed

Please retype the rule accordingly and resubmit it to our office electronically.

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission / Marine Fisheries Commission

RULE CITATION: 15A NCAC 10C .0102 / 15A NCAC 03Q .0102

DEADLINE FOR RECEIPT: August 11, 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:

- *Line 4, please remove the semicolon.*

MFC response: completed

WRC response: completed

- *Line 6, switch “which” to “that” and delete “which are” on the following line.*

MFC response: completed

Additional MFC response: consistent with the technical change request for 15A NCAC 10C .0103 / 15A NCAC 03Q .0103, “wildlife enforcement officers” changed to “wildlife officers” (line 11).

WRC response: completed; removed “enforcement” in line 11 for consistency.

- *WRC: Please remove the “Note” at the end of the rule as this is not reflected in the MFC rule. Also, please put the statutory authority in order.*

MFC response: N/A

WRC response: completed

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: August 3, 2022

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission / Marine Fisheries Commission

RULE CITATION: 15A NCAC 10C .0103 / 15A NCAC 03Q .0103

DEADLINE FOR RECEIPT: August 11, 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:

- *MFC: Change the semicolons on line 4 to commas.*

MFC response: completed

- *Please change “which” to “that” in the second sentence and delete “which are” in that same sentence.*

MFC response: completed

WRC response: completed and changed in following sentence too

- *In the third sentence, please change “regulations” to “regulation”.*

MFC response: completed

WRC response: completed

- *Also in the third sentence, please remove the parenthesis. The list of fish within the parenthesis is different in the two sets of rules. WRC uses “sea trout”, whereas MFC uses “seatrout”. Choose one spelling. WRC also includes “red drum, flounder, white perch, yellow perch”, whereas MFC does not. The two agencies need to be in agreement on this, otherwise WRC must remove the additional species from the rule.*

MFC response: technical changes to address this request include:

- removing the parentheses;
- retaining the spelling of “seatrout”, consistent with the American Fisheries Society names of species. The American Fisheries Society is the recognized authority on the names of fishes indigenous to North America; and
- replicating the list of species included in the WRC rule.

WRC response: completed

Lawrence R. Duke
Commission Counsel

Date submitted to agency: August 3, 2022

- *MFC uses “fisheries enforcement officers”. WRC uses “marine fisheries inspectors”. Pick one.*

MFC response:

- changed to “marine fisheries inspectors”, consistent with G.S. § 113-128 (5b); and
- clarified ‘coastal “fishing” waters’ in same sentence, consistent with G.S. § 113-129 (4).

- *MFC uses “wildlife enforcement officers”. WRC uses “wildlife officers”. Pick one.*

MFC response: “wildlife enforcement officers” changed to “wildlife officers” (line 11).

Please retype the rule accordingly and resubmit it to our office electronically.

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission / Marine Fisheries Commission

RULE CITATION: 15A NCAC 10C .0104 / 15A NCAC 03Q .0104

DEADLINE FOR RECEIPT: August 11, 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:

- *Please delete “, hereinafter set out,”.*

MFC response: completed

WRC response: completed

- *Please change “which” to “that” and delete “which are” in the second sentence.*

MFC response: completed

WRC response: completed

- *Delete “The regulation and licensing of fishing in joint waters shall be as stated in 15A NCAC .0106.” This is unnecessary.*

MFC response: completed

WRC response: completed

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: August 3, 2022

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission / Marine Fisheries Commission

RULE CITATION: 15A NCAC 10C .0105 / 15A NCAC 03Q .0105

DEADLINE FOR RECEIPT: August 11, 2022

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

- *MFC: change “in so far” on line 6 to “insofar”.*

MFC response: completed

- *On line 10, MFC uses “regulation” and WRC uses “regulations”. Pick one.*

MFC response: changed to “regulations”, consistent with WRC rule

Please retype the rule accordingly and resubmit it to our office electronically.

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission / Marine Fisheries Commission

RULE CITATION: 15A NCAC 10C .0106 / 15A NCAC 03Q .0106

DEADLINE FOR RECEIPT: August 11, 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:

- *Form & Rule Title: MFC uses “Applicability of Rules” and WRC uses “Applicability of Regulations”. Pick one. “Rules” seems correct, but that is up to the agencies.*

MFC response: retained “Rules” and clarified ‘Joint “Fishing” Waters’, consistent with G.S. § 113-129 (10a) (lines 3, 5, and 8)

WRC response: completed

- *MFC: A Rule that has “Department of Environment and Natural Resources” may be objected to on ambiguity/clarity grounds simply because it is obvious no one at the “Department” or the “Division” looked at the Rule before readoption. It is not RRC Counsel’s job to clean up your rules.*

MFC response: “Department of Environment and Natural Resources” has been clarified to read “Department of Environmental Quality”.

- *In paragraph (a), state where exceptions can be found and delete “except where otherwise provided” because it is unclear.*

MFC response:

- clarified by changing “except as otherwise provided,” to “except as otherwise provided in this Section”; and
- also, consistent with the technical change request for 15A NCAC 10C .0103 / 15A NCAC 03Q .0103, clarified “fisheries enforcement officers.” to “marine fisheries inspectors.”, consistent with G.S. § 113-128 (5b) (line 6), and changed “wildlife enforcement officers” to “wildlife officers” (line 8).

WRC response: added “in this Section” to clarify

- *WRC: Remove strikethrough on “enforcement” on line 8.*

MFC response: N/A

Lawrence R. Duke
Commission Counsel

Date submitted to agency: August 3, 2022

WRC response: leaving strikethrough for consistency

- *Please add semicolons after Subparagraphs (a)(1) and (2), and “and” after (2).*

MFC response: semicolons added after Subparagraphs (b)(1) and (2), and “and” added after (b)(2).

WRC response: semicolons added after subparagraphs (b)(1) and (2), and “and” added after (b)(2)

Please retype the rule accordingly and resubmit it to our office electronically.

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission / Marine Fisheries Commission

RULE CITATION: 15A NCAC 10C .0107 / 15A NCAC 03Q .0107

DEADLINE FOR RECEIPT: August 11, 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:

- *Please delete lines 4, 5, and 6. Also, delete “rules” starting line 7 and add “The following shall supercede...” The deleted text is not a rule and is unnecessary.*

MFC response:

- completed; and
- also clarified ‘joint “fishing” waters’, consistent with G.S. § 113-129 (10a) (lines 3, 8, 27, 32, and 34).

WRC response: completed; added “fishing” throughout

- *Remove the parenthesis in Subitems (1)(a) and (b).*

MFC response: completed

WRC response: completed; removed “the lengths of” from (1)(b)

- *In subitem (1)(g), the “rules of the Marine Fisheries Commission” referenced here are found where? Should a specific reference be added?*

MFC response: specific reference added

WRC response: reference added

- *Please add an oxford comma after “net stakes” in item (3).*

MFC response: completed

WRC response: completed

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: August 3, 2022

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission

RULE CITATION: 15A NCAC 10C .0108

DEADLINE FOR RECEIPT: August 11, 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:

For the incorporation by reference, please use this language, starting on line 7: "...list and classification is incorporated by reference, including subsequent amendments and editions."

WRC response: completed

In the History Note, Authority section, G.S. 150B-14 has been repealed. Please change or delete.

WRC response: completed

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: August 3, 2022

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission

RULE CITATION: 15A NCAC 10C .0109

DEADLINE FOR RECEIPT: August 11, 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:

Please delete the comma after "February" on line 4.

WRC response: completed

Please change "will" to "shall" on line 6. Also, please insert "shall" between "Commission" and "have jurisdiction" on line 9.

WRC response: completed

Please retype the rule accordingly and resubmit it to our office electronically.

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission / Marine Fisheries Commission

RULE CITATION: 15A NCAC 10C .0110 / 15A NCAC 03Q .0108

DEADLINE FOR RECEIPT: August 11, 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:

- *MFC: The semicolon on line 9 seems to be an error. Should it be a colon?*

MFC response: yes, changed the punctuation to be a colon

- *Please add an oxford comma after “joint” on line 13 (MFC) or line 22 (WRC).*

MFC response:

- completed; and
- also clarified ‘joint “fishing” waters’, consistent with G.S. § 113-129 (10a) (lines 4 and 7) and ‘coastal, joint, and inland “fishing” waters’, consistent with G.S. § 113-129 (4), (10a), and (9), respectively (line 13).

WRC response: completed; and added “fishing” in title and on line 8 and 23

- *The MFC Rule uses “Albemarle-Roanoke” on line 14; the WRC Rule uses “Albemarle River Roanoke Sound” on line 24. Choose one or the other.*

MFC response: line 14 updated consistent with lines 7-8 of the MFC rule and consistent with lines 8-9 of the WRC rule to read “Albemarle Sound-Roanoke River”

WRC response: changed to Albemarle Sound-Roanoke River

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: August 3, 2022

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission / Marine Fisheries Commission

RULE CITATION: 15A NCAC 10C .0111 / 15A NCAC 03Q .0109

DEADLINE FOR RECEIPT: August 11, 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 the first paragraph, MFC uses “striped bass management actions” and WRC uses “striped bass management plans”. As the title of the Rule uses “plans”, MFC should change “actions” to “plans”.*

MFC response: completed

- *MFC: In item (1), line 10, delete the comma after “areas” and insert commas after “limits” and “joint fishing waters”*

MFC response:

- completed; and
- also clarified ‘joint “fishing” waters’, consistent with G.S. § 113-129 (10a) (line 12), ‘joint and coastal “fishing” waters’, consistent with G.S. § 113-129 (10a) and (4), respectively (line 18), and ‘inland “fishing” waters’, consistent with G.S. § 113-129 (9) (line 20).

WRC response: added “fishing” to lines 11, 19, and 21

- *In item (1), a “-” is needed between “jointly” and “issued”.*

MFC response: completed. Also, capitalized Roanoke River “Management Area”, for consistency.

WRC response: completed

- *In item (2), line 15, add a comma after “joint fishing waters”.*

MFC response: completed

WRC response: completed

- *WRC: In item (2), line 19, add a comma after “Roanoke River Management Area”.*

MFC response: N/A

Lawrence R. Duke
Commission Counsel

Date submitted to agency: August 3, 2022

WRC response: completed

- *Also, in item (2), it states that “The season shall close by proclamation if the quota is about to be exceeded.” How is this determined? By what criteria? Should this be in a rule? “is about to be exceeded” is vague.*

MFC response: Quota management is commonly used by state and federal fishery management agencies, and is defined in Marine Fisheries Commission rule. Quotas are set based on biological factors per the fishery management plan and therefore can vary between species, management area, gear type, etc. In addition, the criteria can change via the fishery management plan review process and via adaptive management within existing plans. It is therefore, intentionally flexible and not appropriate to set the specific criteria in rule.

WRC response: Quota is defined in Marine Fisheries Commission rules. The quota is set based on biological factor per the fishery management plan and is publicized in advance, so constituents know. Harvest is monitored closely during the season through angler interviews and mandatory commercial reporting. When the estimated harvest approaches the quota amount, harvest is prohibited by the managing agency.

Please retype the rule accordingly and resubmit it to our office electronically.

1 15A NCAC 10C .0101 is readopted as published in 36:14 NCR 1237 as follows:

2
3 **SUBCHAPTER 10C – INLAND FISHING REGULATIONS**

4
5 **SECTION .0100 – JURISDICTION OF AGENCIES: CLASSIFICATION OF WATERS**

6
7 **15A NCAC 10C .0101 SCOPE AND PURPOSE**

8 The following rules pertain to the classification of the waters of North Carolina as coastal fishing waters, inland fishing
9 ~~waters~~ ~~waters~~, and joint fishing waters. These rules are adopted jointly by the Marine Fisheries Commission and the
10 Wildlife Resources Commission. In addition to the classification of the waters of the ~~state~~ ~~State~~, these joint rules set
11 forth guidelines to determine which fishing activities in joint ~~fishing~~ waters are regulated by the Marine Fisheries
12 Commission and which are regulated by the Wildlife Resources Commission. Finally, the joint rules set forth special
13 fishing regulations applicable in joint ~~fishing~~ waters that can be enforced by officers of the ~~division~~ ~~Division~~ of ~~marine~~
14 ~~Marine fisheries Fisheries~~ and the Wildlife Resources Commission. These regulations do not affect the jurisdiction
15 of the Marine Fisheries Commission and the Wildlife Resources Commission in any matters other than those
16 specifically set out.

17
18 *History Note: Authority G.S. ~~113-132~~; 113-134; ~~113-132~~; 113-136;*
19 *Eff. February 1, 1976;*
20 *Amended Eff. January 1, 1977.*
21 *Readopted Eff. September 1, 2022.*

1 15A NCAC 10C .0102 is readopted as published in 36:14 NCR 1237 as follows:

2

3 **15A NCAC 10C .0102 INLAND FISHING WATERS**

4 Inland fishing waters are all inland waters except private ~~ponds;~~ ponds and all waters connecting with or tributary to
5 coastal sounds or the ocean extending inland from the dividing line between coastal fishing waters and inland fishing
6 waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission. All waters ~~which~~
7 ~~that~~ are tributary to inland fishing waters and ~~which that~~ are not otherwise designated by agreement between the
8 Marine Fisheries Commission and the Wildlife Resources Commission are inland fishing waters. The regulation and
9 licensing of fishing in inland fishing waters is under the jurisdiction of the Wildlife Resources Commission.
10 Regulations and laws administered by the Wildlife Resources Commission regarding fishing in inland fishing waters
11 are enforced by wildlife enforcement officers.

12 ~~Note: A private pond is a body of water arising within and lying wholly upon the lands of a single owner or a single~~
13 ~~group of joint owners or tenants in common, and from which fish cannot escape, and into which fish of legal size~~
14 ~~cannot enter from public waters at any time. This does not include any impoundment located on land owned by a~~
15 ~~public body or governmental entity.~~

16

17 *History Note:* Authority G.S. ~~113-129; 113-132;~~ 113-134; ~~113-129; 113-132;~~

18 *Eff. February 1, 1976;*

19 *Amended Eff. January 1, 1977.*

20 *Readopted Eff. September 1, 2022.*

1 15A NCAC 10C .0103 is readopted with changes as published in 36:14 NCR 1237 as follows:

2
3 **15A NCAC 10C .0103 COASTAL FISHING WATERS**

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

9 ~~[(b)]~~ The ~~regulations~~ regulation and licensing of fishing in coastal fishing waters is ~~[waters, excluding joint fishing~~
10 ~~waters, shall be]~~ under the jurisdiction of the Marine Fisheries Commission; except that ~~[the following]~~ inland game
11 fish ~~(exclusive~~ exclusive of spotted ~~sea trout, scattrout,~~ red drum, flounder, white perch, yellow perch, weakfish, and
12 striped ~~bass) bass~~ are subject to regulations ~~[regulation]~~ by the Wildlife Resources Commission ~~[when found]~~ in coastal
13 fishing waters. ~~[waters:]~~

14 ~~[(1)]~~ ~~[brown, brook, and rainbow trout;]~~

15 ~~[(2)]~~ ~~[muskellunge, chain, and redfin pickerel;]~~

16 ~~[(3)]~~ ~~[Alabama, largemouth, smallmouth, and spotted bass;]~~

17 ~~[(4)]~~ ~~[Roanoke and rock bass;]~~

18 ~~[(5)]~~ ~~[kokanee salmon;]~~

19 ~~[(6)]~~ ~~[black and white crappie;]~~

20 ~~[(7)]~~ ~~[bluegill, redbreast, redear, pumpkinseed, warmouth, flier, and all other species in the Centrarchidae~~
21 ~~family; and]~~

22 ~~[(8)]~~ ~~[walleye and sauger.]~~

23 ~~[(c)]~~ Regulations ~~[Rules]~~ and laws administered by the Marine Fisheries Commission regarding fishing in coastal
24 fishing waters are ~~[waters, excluding joint fishing waters, shall be]~~ enforced by marine fisheries inspectors.
25 Regulations ~~[Rules and laws]~~ regarding inland game fish ~~[specified in Paragraph (b), when found]~~ in coastal fishing
26 waters are ~~[waters, shall be]~~ enforced by wildlife ~~protectors~~ officers, unless otherwise agreed to by the Wildlife
27 Resources Commission.

28
29 *History Note: Authority G.S. 113-129; 113-132; 113-134; 113-292;*

30 *Eff. February 1, 1976;*

31 *Amended Eff. July 1, 1991; January 1, 1977.*

32 *Readopted Eff. September 1, 2022.*

33

1 15A NCAC 10C .0104 is readopted with changes as published in 36:14 NCR 1237 as follows:

2

3 **15A NCAC 10C .0104 JOINT FISHING WATERS**

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

10 ~~[(b)] [Rules and laws regarding fishing in joint fishing waters may be enforced by both marine fisheries inspectors~~
11 ~~and wildlife officers.]~~

12

13 *History Note: Authority G.S. 113-132; 113-134; 113-292;*

14 *Eff. February 1, 1976;*

15 *Amended Eff. January 1, 1977.*

16 *Readopted Eff. September 1, 2022.*

1 15A NCAC 10C .0106 is readopted with changes as published in 36:14 NCR 1238 as follows:

2

3 **15A NCAC 10C .0106 APPLICABILITY OF REGULATIONS; RULES; JOINT FISHING WATERS**

4 (a) All coastal fishing laws and regulations [rules] administered by the Department of ~~Environment, Health, and~~
5 ~~Natural Resources~~ Environmental Quality and the Marine Fisheries Commission [shall] apply to joint fishing waters
6 except as otherwise provided in this Section and shall be enforced by marine fisheries enforcement officers. inspectors.
7 [provided.]

8 (b) The following inland fishing laws and regulations [rules] administered by the Wildlife Resources Commission
9 [shall] apply to joint fishing waters and shall be enforced by wildlife enforcement officers: [waters:]

10 (1) all laws and regulations [rules] pertaining to inland game ~~fishes fishes;~~ [fishes specified in Rule
11 .0103 of this Section;]

12 (2) all laws and regulations pertaining to inland fishing license requirements for hook and line fishing,
13 fishing; and

14 (3)[(2)] all laws and regulations [rules] pertaining to hook and line fishing except as hereinafter provided.
15 [provided; and]

16 [(3)] all laws and rules pertaining to fish, crustacea, and mollusks identified on the protected animal list,
17 as defined in G.S. 113-331;]

18

19 *History Note: Authority G.S. 113-132; 113-134; 113-271; 113-275; 113-182; 113-292; 113-333;*

20 *Eff. January 1, 1977;*

21 *Amended Eff. April 1, 1990; April 15, 1979..*

22 *Readopted Eff. September 1, 2022.*

1 15A NCAC 10C .0107 is readopted with changes as published in 36:14 NCR 1238 as follows:

2
3 **15A NCAC 10C .0107 SPECIAL REGULATIONS: ~~REGULATIONS FOR~~ JOINT FISHING WATERS**

4 ~~[The following requirements shall apply in joint fishing waters and] In order to effectively manage all fisheries~~
5 ~~resources in joint waters and in order to confer enforcement powers on both fisheries enforcement officers and wildlife~~
6 ~~enforcement officers with respect to certain rules, the Marine Fisheries Commission and the Wildlife Resources~~
7 ~~Commission deem it necessary to adopt special rules for joint waters. Such rules~~ The following shall supersede any
8 inconsistent rules of the Marine Fisheries Commission or the Wildlife Resources Commission that would otherwise
9 be applicable in joint fishing waters under the provisions of 15A NCAC 10C .0106:

10 (1) Striped Bass

- 11 (a) It is [it shall be] unlawful to possess any striped bass or striped bass hybrid that is less than
12 18 inches ~~long (total length),~~ total length.
- 13 (b) It is [it shall be] unlawful to possess striped bass or striped bass hybrids between the lengths
14 of 22 and 27 inches (total length) total length in joint fishing waters of the Central Southern
15 Management Area as designated in 15A NCAC 03R .0201.
- 16 (c) It is [it shall be]unlawful to possess striped bass or striped bass hybrids May through
17 September in the joint fishing waters of the Central Southern Management Area and the
18 Albemarle Sound Management Area.
- 19 (d) It is [it shall be] unlawful to possess striped bass or striped bass hybrids taken from the
20 joint fishing waters of the Cape Fear River.
- 21 (e) It is [it shall be]unlawful to possess more than one daily creel limit of striped bass or striped
22 bass hybrids, in the aggregate, per person per day, regardless of the number of management
23 areas fished.
- 24 (f) Possession [possession] of fish shall be assessed for the creel and size limits of the
25 management area in which the individual is found to be fishing, regardless of the size or
26 creel limits for other management areas visited by that individual in a given day.
- 27 (g) It is [it shall be]unlawful to engage in net fishing for striped bass or their hybrids in joint
28 fishing waters except as authorized by rules of the Marine Fisheries ~~Commission.~~
29 Commission as set forth in 15A NCAC 03M .0201, 0202, .0204, .0205, and .0512.

30 (2) Lake Mattamuskeet

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

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

1 (4) Shad: It is ~~shall be~~ unlawful to possess more than 10 American shad or hickory shad, in the
2 aggregate, per person per day taken by hook-and-line.

3

4 *History Note:* *Authority G.S. 113-132; 113-134; 113-138; 113-182; 113-292;*

5 *Eff. January 1, 1977;*

6 *Amended Eff. July 1, 2008; May 1, 2005; August 1, 2000; July 1, 1993; November 1, 1991; January*
7 *1, 1991; August 1, 1985.*

8 *Readopted Eff. September 1, 2022.*

1 15A NCAC 10C .0108 is readopted as published in 36:14 NCR 1238 as follows:

2

3 **15A NCAC 10C .0108 SPECIFIC CLASSIFICATION OF WATERS**

4 The several sounds and estuarine and tributary waters all or portions of which are specifically classified as inland,
5 joint, or coastal fishing waters by agreement of the Marine Fisheries Commission and the Wildlife Resources
6 Commission are listed in the regulations of the Marine Fisheries Commission under 15A NCAC 3Q .0200 and such
7 list and classification is incorporated herein by reference, ~~shall include any later amendments, and is made a part of~~
8 ~~this Section to the same extent as if the same were fully set forth herein.~~ including subsequent amendments and
9 editions.

10

11 *History Note:* Authority G.S. 113-129; 113-132; 113-134; ~~150B-14;~~

12 *Eff. January 1, 1977;*

13 *Amended Eff. July 1, 1993; January 1, 1981; January 1, 1978.*

14 *Readopted Eff. September 1, 2022.*

1 15A NCAC 10C .0109 is readopted as published in 36:14 NCR 1238 as follows:

2

3 **15A NCAC 10C .0109 PROTECTION OF SEA TURTLES**

4 Pursuant to a cooperative agreement entered into on the fifth day of February, February 1979, by the Department of
5 ~~Environment, Health, and Natural Resources~~, Environmental Quality, the Marine Fisheries Commission, and the
6 Wildlife Resources Commission, the Wildlife Resources Commission ~~will~~ shall exercise regulatory jurisdiction over
7 any species of sea turtles, and their eggs and nests, consistent with designation of such species as endangered or
8 threatened by the U.S. Fish and Wildlife Service. As provided by said agreement, the law enforcement officers of
9 both the Marine Fisheries Commission and the Wildlife Resources Commission shall have jurisdiction to enforce any
10 state laws and regulations, including those contained in 15A NCAC 10I, relating to endangered or threatened species
11 of sea turtles and their eggs and nests.

12

13 *History Note: Authority G.S. 113-132; 113-134; 113-138; 113-181; 113-182; 113-224; 113-305;*

14 *Eff. April 29, 1979;*

15 *Amended Eff. April 1, 1990.*

16 *Readopted Eff. September 1, 2022.*

1 15A NCAC 10C .0110 is readopted with changes as published in 36:14 NCR 1238-1239 as follows:

2
3 **15A NCAC 10C .0110 MANAGEMENT RESPONSIBILITY FOR ~~OF~~ ESTUARINE STRIPED BASS IN**
4 **JOINT FISHING WATERS ~~[THE ALBEMARLE SOUND AND ROANOKE~~**
5 **~~RIVER MANAGEMENT AREAS]~~**

6 (a) The management areas for estuarine striped bass fisheries in coastal North Carolina are designated in 15A NCAC
7 03R .0201.

8 (b) ~~(a)~~ In order to ~~[To]~~ effectively manage the recreational hook and line harvest in joint fishing waters of the
9 Albemarle Sound-Roanoke River stock of ~~[estuarine]~~ striped bass, the Marine Fisheries Commission and the Wildlife
10 Resources Commission deem it necessary to establish two management areas: the Albemarle Sound Management
11 Area and the Roanoke River Management Area as designated in 15A NCAC 03R .0201.

12 ~~(1)~~ the Albemarle Sound Management Area is designated as Albemarle Sound and all its joint and
13 inland water tributaries, (except for the Roanoke, Middle, Eastmost and Cashie rivers), Currituck,
14 Roanoke and Croatan sounds and all their joint and inland water tributaries, including Oregon Inlet,
15 north of a line beginning at a point 35° 48.5015' N - 75° 44.1228' W on Roanoke Marshes Point,
16 running southeasterly to a point 35° 44 .1710' N - 75° 31 .0520' W on the north point of Eagle Nest
17 Bay.

18 ~~(2)~~ the Roanoke River Management Area is designated as Roanoke River and its joint and inland
19 tributaries, including Middle, Eastmost and Cashie rivers, up to the Roanoke Rapids dam.

20 ~~(b)~~ The Wildlife Resources Commission shall have principal management responsibility for the stock when it is in
21 the joint and inland [and joint] fishing waters of the Roanoke River Management Area. The Marine Fisheries
22 Commission shall have principal management responsibility for the stock in the coastal, joint [joint] joint, and inland
23 fishing waters of the Albemarle Sound Management Area.

24 ~~(c)~~ The annual quota for recreational harvest of the Albemarle Sound Roanoke Sound-Roanoke River striped bass
25 stock shall be divided equally between the two management areas. Each Commission shall implement management
26 actions for recreational harvest within their respective management areas that shall be consistent with the North
27 Carolina Estuarine Striped Bass Fishery Management Plan. [areas.]

28 ~~(d)~~ To preserve jurisdictional authority of each Commission, the following means are established through which
29 management measures may be implemented in the following management areas:

30 ~~(1)~~ [in the Roanoke River Management Area, the exclusive authority to open and close seasons and
31 areas, and establish size and creel limits, whether inland or joint fishing waters, shall be vested in
32 the Wildlife Resources Commission.]

33 ~~(2)~~ [in the Albemarle Sound Management Area, the exclusive authority to open and close seasons and
34 areas, and establish size and creel limits, whether coastal or joint fishing waters, shall be vested in
35 the Marine Fisheries Commission. The season shall close by proclamation if the quota set by the
36 North Carolina Estuarine Striped Bass Fishery Management Plan is projected to be taken.]

1 *History Note: Authority G.S. 113-132; 113-134; 113-138; 113-182; 113-292;*
2 *Eff. January 1, 1991;*
3 *Amended Eff. June 1, 2005.*
4 *Readopted Eff. September 1, 2022.*

1 15A NCAC 10C .0111 is readopted as published in 36:14 NCR 1239 as follows:

2

3 **15A NCAC 10C .0111 IMPLEMENTATION OF ESTUARINE STRIPED BASS MANAGEMENT PLANS:**
4 **RECREATIONAL FISHING**

5 The Marine Fisheries and Wildlife Resources Commissions shall implement their respective striped bass management
6 plans for recreational fishing pursuant to their respective rulemaking powers. To preserve jurisdictional authority of
7 each Commission, the following means are established through which management measures can be implemented by
8 a single instrument in the following management areas:

9 (1) In the Roanoke River Management Area, the exclusive authority to open and close seasons and areas
10 and establish size and creel limits, whether inland or joint fishing waters, shall be vested in the
11 Wildlife Resources Commission. An instrument closing any management area in joint **fishing**
12 waters shall operate as a ~~jointly issued~~ **jointly-issued** instrument opening or closing seasons or areas
13 to harvest in the Roanoke River Management Area.

14 (2) In the Albemarle Sound Management Area, the exclusive authority to open and close seasons and
15 areas and establish size and creel limits, whether coastal or joint fishing ~~waters~~ **waters**, shall be
16 vested in the Marine Fisheries Commission. The season shall close by Marine Fisheries
17 Commission proclamation if the quota is about to be exceeded. In the Albemarle Sound
18 Management Area administered by the Marine Fisheries Commission, a proclamation affecting the
19 harvest in joint and coastal **fishing** waters, excluding the Roanoke River Management ~~Area~~ **Area**,
20 shall automatically be implemented and effective as a Wildlife Resources Commission action in the
21 inland **fishing** waters and tributaries to the waters affected.

22

23 *History Note: Authority G.S. 113-132; 113-134; 113-138; 113-292;*
24 *Eff. January 1, 1991;*
25 *Amended Eff. June 1, 2005.*
26 *Readopted Eff. September 1, 2022.*

Burgos, Alexander N

Subject: FW: WRC/MFC Joint-Jurisdiction Rules
Attachments: 15A NCAC 03Q 0101.docx; 15A NCAC 03Q 0102.docx; 15A NCAC 03Q 0103.docx; 15A NCAC 03Q 0104.docx; 15A NCAC 03Q 0105.docx; 15A NCAC 03Q 0106.docx; 15A NCAC 03Q 0107.docx; 15A NCAC 03Q 0108.docx; 15A NCAC 03Q 0109.docx; WRC.10C - MFC.03Q - 08.2022 - Change Requests_MFCandWRCResponses_Final.docx

From: Everett, Jennifer <jennifer.everett@ncdenr.gov>
Sent: Thursday, August 11, 2022 7:12 PM
To: Duke, Lawrence <lawrence.duke@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Pekrul, Ashley M <ashley.pekrul@ncwildlife.org>; Blum, Catherine <catherine.blum@ncdenr.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Ruhlman, Carrie A <carrie.ruhlman@ncwildlife.org>; Klibansky, Lara <Lara.Klibansky@ncdenr.gov>; Maier, Michael S <shawn.maier@ncdenr.gov>; Reynolds, Phillip T <preynolds@ncdoj.gov>
Subject: RE: WRC/MFC Joint-Jurisdiction Rules

Hi Lawrence,

Attached are the MFC re-written rules addressing your technical change requests. In addition, attached are the responses from both the MFC and WRC.
Let me know if you have any questions.

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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REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission / Marine Fisheries Commission

RULE CITATION: 15A NCAC 10C .0101 / 15A NCAC 03Q .0101

DEADLINE FOR RECEIPT: August 11, 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:

- *This is not a rule and will be objected to on this ground. Please refer to G.S. 150B-2(8a) for the definition of “rule”, particularly (8a) (a), (c), and (g).*

MFC response: The MFC respectfully disagrees with counsel’s assessment that 15A NCAC 10C .0101 / 15A NCAC 03Q .0101 is not a rule. The rule is not merely a nonbinding interpretative statement or a statement concerning only the internal management of an agency or group of agencies. This rule speaks to the jurisdictional agreement between the two commissions and provides that the rules are to be adopted jointly and can be enforced by officers of either commission. The jurisdictional agreement represented in .0101 is not merely an internal understanding between the two commissions, as it directly impacts the regulated community. This rule provides the framework by which rules of the Marine Fisheries Commission, the Wildlife Resources Commission, or both, through the promulgation of joint rules, apply to a person fishing in joint waters. Finally, this rule explicitly preserves the jurisdiction of the respective commissions for any matters not specifically addressed in these rules.

WRC response: This rule cannot be fixed without substantial changes to content. Technical changes requested below have been incorporated.

Regardless of whether or not it is a rule, please fix the following:

- *WRC: please see MFC’s version, which includes the Subchapter and Section headings. Please correct this formatting.*

MFC response: N/A

WRC response: completed

- *Add an oxford comma after “inland fishing waters” in the first sentence.*

MFC response: completed

WRC response: completed

Lawrence R. Duke
Commission Counsel

Date submitted to agency: August 3, 2022

- *For: “In addition to the classification of the waters of the state [capitalize State][add comma here for clarity] these joint rules...”*

MFC response: completed. Also added “fishing” in “joint fishing waters”, consistent with G.S. § 113-129 (10a) (lines 11 and 13).

WRC response: completed; added “fishing” in lines 11 and 13; capitalized DMF in line 13

- *WRC: please put your History Note, Statutory Authority in numerological order.*

MFC response: N/A

WRC response: completed

Please retype the rule accordingly and resubmit it to our office electronically.

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission / Marine Fisheries Commission

RULE CITATION: 15A NCAC 10C .0102 / 15A NCAC 03Q .0102

DEADLINE FOR RECEIPT: August 11, 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:

- *Line 4, please remove the semicolon.*

MFC response: completed

WRC response: completed

- *Line 6, switch “which” to “that” and delete “which are” on the following line.*

MFC response: completed

Additional MFC response: consistent with the technical change request for 15A NCAC 10C .0103 / 15A NCAC 03Q .0103, “wildlife enforcement officers” changed to “wildlife officers” (line 11).

WRC response: completed; removed “enforcement” in line 11 for consistency.

- *WRC: Please remove the “Note” at the end of the rule as this is not reflected in the MFC rule. Also, please put the statutory authority in order.*

MFC response: N/A

WRC response: completed

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: August 3, 2022

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission / Marine Fisheries Commission

RULE CITATION: 15A NCAC 10C .0103 / 15A NCAC 03Q .0103

DEADLINE FOR RECEIPT: August 11, 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:

- *MFC: Change the semicolons on line 4 to commas.*

MFC response: completed

- *Please change “which” to “that” in the second sentence and delete “which are” in that same sentence.*

MFC response: completed

WRC response: completed and changed in following sentence too

- *In the third sentence, please change “regulations” to “regulation”.*

MFC response: completed

WRC response: completed

- *Also in the third sentence, please remove the parenthesis. The list of fish within the parenthesis is different in the two sets of rules. WRC uses “sea trout”, whereas MFC uses “seatrout”. Choose one spelling. WRC also includes “red drum, flounder, white perch, yellow perch”, whereas MFC does not. The two agencies need to be in agreement on this, otherwise WRC must remove the additional species from the rule.*

MFC response: technical changes to address this request include:

- removing the parentheses;
- retaining the spelling of “seatrout”, consistent with the American Fisheries Society names of species. The American Fisheries Society is the recognized authority on the names of fishes indigenous to North America; and
- replicating the list of species included in the WRC rule.

WRC response: completed

Lawrence R. Duke
Commission Counsel

Date submitted to agency: August 3, 2022

- *MFC uses “fisheries enforcement officers”. WRC uses “marine fisheries inspectors”. Pick one.*

MFC response:

- changed to “marine fisheries inspectors”, consistent with G.S. § 113-128 (5b); and
- clarified ‘coastal “fishing” waters’ in same sentence, consistent with G.S. § 113-129 (4).

- *MFC uses “wildlife enforcement officers”. WRC uses “wildlife officers”. Pick one.*

MFC response: “wildlife enforcement officers” changed to “wildlife officers” (line 11).

Please retype the rule accordingly and resubmit it to our office electronically.

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission / Marine Fisheries Commission

RULE CITATION: 15A NCAC 10C .0104 / 15A NCAC 03Q .0104

DEADLINE FOR RECEIPT: August 11, 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:

- *Please delete “, hereinafter set out,”.*

MFC response: completed

WRC response: completed

- *Please change “which” to “that” and delete “which are” in the second sentence.*

MFC response: completed

WRC response: completed

- *Delete “The regulation and licensing of fishing in joint waters shall be as stated in 15A NCAC .0106.” This is unnecessary.*

MFC response: completed

WRC response: completed

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: August 3, 2022

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission / Marine Fisheries Commission

RULE CITATION: 15A NCAC 10C .0105 / 15A NCAC 03Q .0105

DEADLINE FOR RECEIPT: August 11, 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:

- *MFC: change “in so far” on line 6 to “insofar”.*

MFC response: completed

- *On line 10, MFC uses “regulation” and WRC uses “regulations”. Pick one.*

MFC response: changed to “regulations”, consistent with WRC rule

Please retype the rule accordingly and resubmit it to our office electronically.

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission / Marine Fisheries Commission

RULE CITATION: 15A NCAC 10C .0106 / 15A NCAC 03Q .0106

DEADLINE FOR RECEIPT: August 11, 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:

- *Form & Rule Title: MFC uses “Applicability of Rules” and WRC uses “Applicability of Regulations”. Pick one. “Rules” seems correct, but that is up to the agencies.*

MFC response: retained “Rules” and clarified ‘Joint “Fishing” Waters’, consistent with G.S. § 113-129 (10a) (lines 3, 5, and 8)

WRC response: completed

- *MFC: A Rule that has “Department of Environment and Natural Resources” may be objected to on ambiguity/clarity grounds simply because it is obvious no one at the “Department” or the “Division” looked at the Rule before re adoption. It is not RRC Counsel’s job to clean up your rules.*

MFC response: “Department of Environment and Natural Resources” has been clarified to read “Department of Environmental Quality”.

- *In paragraph (a), state where exceptions can be found and delete “except where otherwise provided” because it is unclear.*

MFC response:

- clarified by changing “except as otherwise provided,” to “except as otherwise provided in this Section”; and
- also, consistent with the technical change request for 15A NCAC 10C .0103 / 15A NCAC 03Q .0103, clarified “fisheries enforcement officers.” to “marine fisheries inspectors.”, consistent with G.S. § 113-128 (5b) (line 6), and changed “wildlife enforcement officers” to “wildlife officers” (line 8).

WRC response: added “in this Section” to clarify

- *WRC: Remove strikethrough on “enforcement” on line 8.*

MFC response: N/A

Lawrence R. Duke
Commission Counsel

Date submitted to agency: August 3, 2022

WRC response: leaving strikethrough for consistency

- *Please add semicolons after Subparagraphs (a)(1) and (2), and “and” after (2).*

MFC response: semicolons added after Subparagraphs (b)(1) and (2), and “and” added after (b)(2).

WRC response: semicolons added after subparagraphs (b)(1) and (2), and “and” added after (b)(2)

Please retype the rule accordingly and resubmit it to our office electronically.

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission / Marine Fisheries Commission

RULE CITATION: 15A NCAC 10C .0107 / 15A NCAC 03Q .0107

DEADLINE FOR RECEIPT: August 11, 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:

- *Please delete lines 4, 5, and 6. Also, delete “rules” starting line 7 and add “The following shall supercede...” The deleted text is not a rule and is unnecessary.*

MFC response:

- completed; and
- also clarified ‘joint “fishing” waters’, consistent with G.S. § 113-129 (10a) (lines 3, 8, 27, 32, and 34).

WRC response: completed; added “fishing” throughout

- *Remove the parenthesis in Subitems (1)(a) and (b).*

MFC response: completed

WRC response: completed; removed “the lengths of” from (1)(b)

- *In subitem (1)(g), the “rules of the Marine Fisheries Commission” referenced here are found where? Should a specific reference be added?*

MFC response: specific reference added

WRC response: reference added

- *Please add an oxford comma after “net stakes” in item (3).*

MFC response: completed

WRC response: completed

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: August 3, 2022

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission

RULE CITATION: 15A NCAC 10C .0108

DEADLINE FOR RECEIPT: August 11, 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:

For the incorporation by reference, please use this language, starting on line 7: "...list and classification is incorporated by reference, including subsequent amendments and editions."

WRC response: completed

In the History Note, Authority section, G.S. 150B-14 has been repealed. Please change or delete.

WRC response: completed

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel
Date submitted to agency: August 3, 2022

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission

RULE CITATION: 15A NCAC 10C .0109

DEADLINE FOR RECEIPT: August 11, 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:

Please delete the comma after "February" on line 4.

WRC response: completed

Please change "will" to "shall" on line 6. Also, please insert "shall" between "Commission" and "have jurisdiction" on line 9.

WRC response: completed

Please retype the rule accordingly and resubmit it to our office electronically.

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission / Marine Fisheries Commission

RULE CITATION: 15A NCAC 10C .0110 / 15A NCAC 03Q .0108

DEADLINE FOR RECEIPT: August 11, 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:

- *MFC: The semicolon on line 9 seems to be an error. Should it be a colon?*

MFC response: yes, changed the punctuation to be a colon

- *Please add an oxford comma after “joint” on line 13 (MFC) or line 22 (WRC).*

MFC response:

- completed; and
- also clarified ‘joint “fishing” waters’, consistent with G.S. § 113-129 (10a) (lines 4 and 7) and ‘coastal, joint, and inland “fishing” waters’, consistent with G.S. § 113-129 (4), (10a), and (9), respectively (line 13).

WRC response: completed; and added “fishing” in title and on line 8 and 23

- *The MFC Rule uses “Albemarle-Roanoke” on line 14; the WRC Rule uses “Albemarle River Roanoke Sound” on line 24. Choose one or the other.*

MFC response: line 14 updated consistent with lines 7-8 of the MFC rule and consistent with lines 8-9 of the WRC rule to read “Albemarle Sound-Roanoke River”

WRC response: changed to Albemarle Sound-Roanoke River

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: August 3, 2022

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Wildlife Resources Commission / Marine Fisheries Commission

RULE CITATION: 15A NCAC 10C .0111 / 15A NCAC 03Q .0109

DEADLINE FOR RECEIPT: August 11, 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 the first paragraph, MFC uses “striped bass management actions” and WRC uses “striped bass management plans”. As the title of the Rule uses “plans”, MFC should change “actions” to “plans”.*

MFC response: completed

- *MFC: In item (1), line 10, delete the comma after “areas” and insert commas after “limits” and “joint fishing waters”*

MFC response:

- completed; and
- also clarified ‘joint “fishing” waters’, consistent with G.S. § 113-129 (10a) (line 12), ‘joint and coastal “fishing” waters’, consistent with G.S. § 113-129 (10a) and (4), respectively (line 18), and ‘inland “fishing” waters’, consistent with G.S. § 113-129 (9) (line 20).

WRC response: added “fishing” to lines 11, 19, and 21

- *In item (1), a “-” is needed between “jointly” and “issued”.*

MFC response: completed. Also, capitalized Roanoke River “Management Area”, for consistency.

WRC response: completed

- *In item (2), line 15, add a comma after “joint fishing waters”.*

MFC response: completed

WRC response: completed

- *WRC: In item (2), line 19, add a comma after “Roanoke River Management Area”.*

MFC response: N/A

Lawrence R. Duke
Commission Counsel

Date submitted to agency: August 3, 2022

WRC response: completed

- *Also, in item (2), it states that “The season shall close by proclamation if the quota is about to be exceeded.” How is this determined? By what criteria? Should this be in a rule? “is about to be exceeded” is vague.*

MFC response: Quota management is commonly used by state and federal fishery management agencies, and is defined in Marine Fisheries Commission rule. Quotas are set based on biological factors per the fishery management plan and therefore can vary between species, management area, gear type, etc. In addition, the criteria can change via the fishery management plan review process and via adaptive management within existing plans. It is therefore, intentionally flexible and not appropriate to set the specific criteria in rule.

WRC response: Quota is defined in Marine Fisheries Commission rules. The quota is set based on biological factor per the fishery management plan and is publicized in advance, so constituents know. Harvest is monitored closely during the season through angler interviews and mandatory commercial reporting. When the estimated harvest approaches the quota amount, harvest is prohibited by the managing agency.

Please retype the rule accordingly and resubmit it to our office electronically.

1 15A NCAC 03Q .0101 is readopted with changes as published in 36:20 NCR 1623 as follows:

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

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

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

8 The rules in this Section pertain to the classification of the waters of North Carolina as coastal fishing waters, inland
9 fishing ~~waters-waters~~, and joint fishing waters. These rules are adopted jointly by the Marine Fisheries Commission
10 and the Wildlife Resources Commission. In addition to the classification of the waters of the ~~state-State~~, these joint
11 rules set forth guidelines to determine which fishing activities in joint ~~fishing~~ waters are regulated by the Marine
12 Fisheries Commission and which are regulated by the Wildlife Resources Commission. Finally, the joint rules set
13 forth special fishing regulations applicable in joint ~~fishing~~ waters that can be enforced by officers of the Division of
14 Marine Fisheries and the Wildlife Resources Commission. These regulations do not affect the jurisdiction of the
15 Marine Fisheries Commission and the Wildlife Resources Commission in any matters other than those specifically set
16 out.

17
18 *History Note: Authority G.S. 113-132; 113-134; 143B-289.52;*
19 *Eff. January 1, 1991;*
20 *Readopted Eff. September 1, 2022.*

1 15A NCAC 03Q .0102 is readopted with changes as published in 36:20 NCR 1623 as follows:

2

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

4 Inland fishing waters are all inland waters except private ~~ponds;~~ ponds and all waters connecting with or tributary to
5 coastal sounds or the ocean extending inland from the dividing line between coastal fishing waters and inland fishing
6 waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission. All waters ~~which~~
7 ~~that~~ are tributary to inland fishing waters and ~~which are~~ not otherwise designated by agreement between the Marine
8 Fisheries Commission and the Wildlife Resources Commission are inland fishing waters. The regulation and licensing
9 of fishing in inland fishing waters is under the jurisdiction of the Wildlife Resources Commission. Regulations and
10 laws administered by the Wildlife Resources Commission regarding fishing in inland fishing waters are enforced by
11 wildlife ~~enforcement~~ officers.

12

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

14 *Eff. January 1, 1991;*

15 *Readopted Eff. September 1, 2022.*

1 15A NCAC 03Q .0103 is readopted with changes as published in 36:20 NCR 1623-1624 as follows:

2

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

4 Coastal fishing waters are the Atlantic ~~Ocean; Ocean,~~ the various coastal ~~sounds; sounds,~~ and estuarine waters up to
5 the dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries
6 Commission and the Wildlife Resources Commission. All waters ~~which that~~ are tributary to coastal fishing waters and
7 ~~which are~~ not otherwise designated by agreement between the Marine Fisheries Commission and the Wildlife
8 Resources Commission are coastal fishing waters. The ~~regulations regulation~~ and licensing of fishing in coastal fishing
9 waters is under the jurisdiction of the Marine Fisheries Commission; except that inland game fish ~~(exclusive exclusive~~
10 of spotted seatrout, ~~red drum, flounder, white perch, yellow perch,~~ weakfish, and striped ~~bass)-bass~~ are subject to
11 regulations by the Wildlife Resources Commission in coastal fishing waters. Regulations and laws administered by
12 the Marine Fisheries Commission regarding fishing in coastal ~~fishing~~ waters are enforced by ~~fisheries enforcement~~
13 ~~officers, marine fisheries inspectors.~~ Regulations regarding inland game fish in coastal fishing waters are enforced by
14 wildlife ~~enforcement~~ officers unless otherwise agreed to by the Wildlife Resources Commission.

15

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

17 *Eff. January 1, 1991;*

18 *Readopted Eff. September 1, 2022.*

1 15A NCAC 03Q .0104 is readopted with changes as published in 36:20 NCR 1624 as follows:

2

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

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

9

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

11 *Eff. January 1, 1991;*

12 *Readopted Eff. September 1, 2022.*

1 15A NCAC 03Q .0105 is readopted with changes as published in 36:20 NCR 1624 as follows:

2

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

4 The dividing lines of all major bodies of water and watercourses which are divided by the agreement of the Marine
5 Fisheries Commission and the Wildlife Resources Commission so that portions of the same are constituted inland
6 fishing waters, coastal fishing waters, or joint fishing waters shall be marked with signs ~~in so far~~ insofar as may be
7 practicable. Unmarked and undesignated tributaries shall have the same classification as the designated waters to
8 which they connect or into which they flow. No unauthorized removal or relocation of any such marker shall have the
9 effect of changing the classification of any body of water or portion thereof, nor shall any such unauthorized removal
10 or relocation or the absence of any marker affect the applicability of any ~~regulation~~ regulations pertaining to any such
11 body of water or portion thereof.

12

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

14 *Eff. January 1, 1991;*

15 *Readopted Eff. September 1, 2022.*

1 15A NCAC 03Q .0106 is readopted with changes as published in 36:20 NCR 1624 as follows:

2

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

4 (a) All coastal fishing laws and regulations administered by the Department of Environment and Natural Resources
5 Environmental Quality and the Marine Fisheries Commission apply to joint fishing waters except as otherwise
6 ~~provided, provided in this Section~~ and shall be enforced by ~~fisheries enforcement officers, marine fisheries inspectors,~~

7 (b) The following inland fishing laws and regulations administered by the Wildlife Resources Commission apply to
8 joint fishing waters and shall be enforced by wildlife enforcement officers:

- 9 (1) all laws and regulations pertaining to inland game ~~fishes, fishes;~~
10 (2) all laws and regulations pertaining to inland fishing license requirements for hook and line
11 fishing, fishing; and
12 (3) all laws and regulations pertaining to hook and line fishing except as hereinafter provided.

13

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

15 *Eff. January 1, 1991;*

16 *Amended Eff. July 1, 1999;*

17 *Readopted Eff. September 1, 2022.*

1 15A NCAC 03Q .0107 is readopted with changes as published in 36:20 NCR 1624-1625 as follows:

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

4 ~~In order to effectively manage all fisheries resources in joint waters and in order to confer enforcement powers on~~
5 ~~both fisheries enforcement officers and wildlife enforcement officers with respect to certain rules, the Marine Fisheries~~
6 ~~Commission and the Wildlife Resources Commission deem it necessary to adopt special rules for joint waters. Such~~
7 ~~rules. The following shall~~ supersede any inconsistent rules of the Marine Fisheries Commission or the Wildlife
8 Resources Commission that would otherwise be applicable in joint fishing waters under the provisions of 15A NCAC
9 03Q .0106:

10 (1) Striped Bass

- 11 (a) It is unlawful to possess any striped bass or striped bass hybrid that is less than 18 inches
12 ~~long (total length),total length.~~
- 13 (b) It is unlawful to possess striped bass or striped bass hybrids between ~~the lengths of~~ 22 and
14 27 inches ~~(total length) total length~~ in joint fishing waters of the Central Southern
15 Management Area as designated in 15A NCAC 03R .0201.
- 16 (c) It is unlawful to possess striped bass or striped bass hybrids May through September in the
17 joint fishing waters of the Central Southern Management Area and the Albemarle Sound
18 Management Area.
- 19 (d) It is unlawful to possess striped bass or striped bass hybrids taken from the joint fishing
20 waters of the Cape Fear River.
- 21 (e) It is unlawful to possess more than one daily creel limit of striped bass or striped bass
22 hybrids, in the aggregate, per person per day, regardless of the number of management
23 areas fished.
- 24 (f) Possession of fish shall be assessed for the creel and size limits of the management area in
25 which the individual is found to be fishing, regardless of the size or creel limits for other
26 management areas visited by that individual in a given day.
- 27 (g) It is unlawful to engage in net fishing for striped bass or striped bass hybrids in joint fishing
28 waters except as authorized by rules of the Marine Fisheries ~~Commission.Commission as~~
29 set forth in 15A NCAC 03M .0201, .0202, .0204, .0205, and .0512.

30 (2) Lake Mattamuskeet:

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

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

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

3

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

1 15A NCAC 03Q .0108 is readopted with changes as published in 36:20 NCR 1625 as follows:

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

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

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

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

1 15A NCAC 03Q .0109 is readopted with changes as published in 36:20 NCR 1625 as follows:

2

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

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

9 (1) In the Roanoke River Management Area, the exclusive authority to open and close seasons and
10 ~~areas, areas~~ and establish size and creel ~~limits-limits~~, whether inland or joint fishing ~~waters-waters~~,
11 shall be vested in the Wildlife Resources Commission. An instrument closing any management area
12 in joint ~~fishing~~ waters shall operate as and shall be a ~~jointly-issued-jointly-issued~~ instrument opening
13 or closing seasons or areas to harvest in the Roanoke River ~~management area~~. Management Area.

14 (2) In the Albemarle Sound Management Area, the exclusive authority to open and close seasons and
15 areas and establish size and creel limits, whether coastal or joint fishing ~~waters-waters~~, shall be
16 vested in the Marine Fisheries Commission. The season shall close by proclamation if the quota is
17 about to be exceeded. In the Albemarle Sound Management Area administered by the Marine
18 Fisheries Commission, a proclamation affecting the harvest in joint and coastal ~~fishing~~ waters,
19 excluding the Roanoke River Management Area, shall automatically be implemented and effective
20 as a Wildlife Resources Commission action in the inland ~~fishing~~ waters and tributaries to the waters
21 affected.

22

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

Burgos, Alexander N

From: Ruhlman, Carrie A
Sent: Wednesday, August 3, 2022 8:25 AM
To: Duke, Lawrence; Everett, Jennifer
Cc: Pekrul, Ashley M; Blum, Catherine; Burgos, Alexander N
Subject: RE: WRC/MFC Joint-Jurisdiction Rules

Hi Lawrence,

The changes we incorporated in 10C .0100 rules were name changes only. This was because the names were either outdated or inconsistent throughout.

Additionally, the WRC does have more joint rules than the MFC (11 and 9 respectively). There is no joint MFC version of these rules.

Carrie Ruhlman

NC Wildlife Resources Commission
Office of Conservation Policy & Analysis
Mailing Address: 1701 Mail Service Center
Raleigh, North Carolina 27699-1701
Office: 919-707-0011
Cell: 919-606-2241

From: Duke, Lawrence <lawrence.duke@oah.nc.gov>
Sent: Tuesday, August 2, 2022 2:33 PM
To: Ruhlman, Carrie A <carrie.ruhlman@ncwildlife.org>; Everett, Jennifer <jennifer.everett@ncdenr.gov>
Cc: Pekrul, Ashley M <ashley.pekrul@ncwildlife.org>; Blum, Catherine <catherine.blum@ncdenr.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: WRC/MFC Joint-Jurisdiction Rules

Jennifer & Carrie,

I'm currently working on the joint-jurisdiction rules for WRC and MFC and had a general question. There are several instances throughout the rules where the language in each agency's version of the same rule is different from the other agency's version. Was this intentional? The differences do not appear to be substantive.

Also, Carrie, I have a specific question as to the WRC rule set. WRC has submitted two additional joint-jurisdiction rules that do not appear in the MFC rule set (10C .0108 – Specific Classification of Waters & 10C .0109 – Protection of Sea Turtles). Are these joint-jurisdiction rules? Should there be a MFC version?

Thanks for your help on these questions.

Lawrence Duke

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1938
Lawrence.Duke@oah.nc.gov

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