NC Marine Fisheries Commission

Rulemaking

August 2025 Quarterly Business Meeting

Documents

Rulemaking Update Memo

2024-2025 Annual Rulemaking Cycle

2025-2026 Annual Rulemaking Cycle

News Release for 2025-2026 Rulemaking Public Hearing

N.C. Register Excerpt

Atlantic Bonito Information Update Memo

JOSH STEIN
Governor

D. REID WILSON
Secretary

KATHY B. RAWLS
Director

August 4, 2025

MEMORANDUM

TO: N.C. Marine Fisheries Commission

FROM: Catherine Blum, Rulemaking Coordinator
Marine Fisheries Commission Office

SUBJECT: Rulemaking Update

Issue

Update the N.C. Marine Fisheries Commission (MFC) on the status of rulemaking in support of the 2024-2025 and 2025-2026 rulemaking cycles.

Findings

- 2024-2025 Rulemaking Cycle – Update
  - At its August 2024 business meeting, the MFC began the process for eight rules in this cycle about pot marking requirements, false albacore management, and the Interstate Wildlife Violator Compact.
  - On October 1, 2024, a news release was issued and the proposed rules were published in the *N.C. Register*, beginning the public comment process. A public hearing was held on October 30, 2024, and the public comment period closed December 2, 2024.
  - The public comments received were presented to the MFC at its February 2025 business meeting when it gave final approval of the rules.
  - The Rules Review Commission (RRC) approved two of the rules on April 24, 2025; both rules will be available for legislative review in the 2026 short session (pots, false albacore).
  - The RRC approved five rules on May 29, 2025; one rule was withdrawn as it was determined to be unnecessary. These five rules became effective June 1, 2025 (Interstate Wildlife Violator Compact).
- 2025-2026 Rulemaking Cycle – Update
  - At its May 2025 business meeting, the MFC began the process for nine rules in this cycle about permits, and franchises and shellfish leases.
  - On August 1, 2025, the proposed rules were published in the *N.C. Register*, beginning the public comment process; a news release was issued August 1, 2025 announcing the public comment period, as well.
  - A public hearing is scheduled to be held on August 26, 2025, at 6 p.m. via WebEx with a listening station in Morehead City.
  - The public comment period will close September 30, 2025.
  - The public comments will be presented to the MFC at its November 2025 business meeting when it is scheduled to vote on final approval of the rules.
  - The rules are subject to legislative review, so they will have a delayed effective date.

Action Needed
No rulemaking action is scheduled for the MFC's August 2025 business meeting.

2024-2025 Rulemaking Cycle (8 rules)
At its August 2024 business meeting, the MFC approved Notice of Text for Rulemaking to begin the process for eight rules about pot marking requirements, false albacore management, and the Interstate Wildlife Violator Compact. A summary of the proposed rules by subject is provided below. A table showing the timing of the steps in the process is included in the rulemaking section of the briefing materials. On October 1, 2024, a news release was issued, and the proposed rules were published in the *N.C. Register*, beginning the public comment period. The MFC accepted public comments on the proposed rules from October 1 through December 2, 2024. A public hearing was held on October 30, 2024. The public comments received were presented to the MFC at its February 2025 business meeting when it gave final approval of the rules.

The RRC approved two of the rules on April 24, 2025; both rules will be available for legislative review in the 2026 short session (pots, false albacore). The RRC approved five rules on May 29, 2025; one rule was withdrawn as it was determined to be unnecessary. These five rules became effective June 1, 2025 (Interstate Wildlife Violator Compact; 15A NCAC 03O .0600) and are available in the latest supplement to the April 1, 2020 North Carolina Marine Fisheries Commission Rules (see https://www.deq.nc.gov/about/divisions/marine-fisheries/rules-proclamations-and-size-and-bag-limits/rules).

POT MARKING REQUIREMENTS RULE AMENDMENTS (1 rule)
Proposed amendments would simplify pot marking requirements for commercial fishermen by requiring only one of three ways to mark pot buoys, not two ways: 1) gear owner's current motorboat registration number; or 2) gear owner's U.S. vessel documentation name; or 3) gear owner's last name and initials. The current rule requires the gear owner's last name and initials be identified on each buoy as a baseline. Then, if a vessel is used, the identification must also include either the gear owner's current motorboat registration number or the gear owner's U.S. vessel documentation name. There have been no problems with pot identification and pot identification would be sufficient via a single identifier. The proposed amendments would simplify the requirements and grant some relief to commercial fishermen that use pots in their commercial fishing operation. The rule is automatically subject to legislative review pursuant to Session Law 2019-198 and N.C.G.S. § 14-4.1.

FALSE ALBACORE MANAGEMENT RULE ADOPTION (1 rule)
The proposed adoption of this rule would provide a mechanism to implement management measures to cap harvest when the false albacore fishery landings exceed a threshold of 200% of average landings from both sectors combined from 2018 to 2022. Harvest restrictions would be implemented if the threshold is exceeded as a means to prevent further expansion of the false albacore fisheries beyond the threshold. Currently, there are no rules in place for management of false albacore in North Carolina. There is no baseline stock assessment for false albacore and thus, no biological basis for reducing harvest. The only mechanism to monitor false albacore is through annual landings in North Carolina, which is not a measure for sustainability of the stock. While there is no need to manage to meet sustainability requirements, the MFC is seeking proactive management of false albacore to limit expansion of new and existing fisheries. Management options would include commercial trip limits, recreational bag limits, and recreational vessel limits. The rule is subject to legislative review pursuant to N.C.G.S. § 150B-21.3.

INTERSTATE WILDLIFE VIOLATOR COMPACT RULE ADOPTIONS (6 rules)
The Interstate Wildlife Violator Compact is a voluntary interstate agreement that provides participating states with a mechanism to participate in a reciprocal program to: (1) promote compliance with the statutes, laws, administrative rules and regulations relating to management of wildlife resources in their respective states; and (2) provide for the fair and impartial treatment of wildlife violators operating within the participating states in recognition of the individual's right of due process and the sovereign status of a party state. North Carolina's participation in the Interstate Wildlife Violator Compact has been enacted into state law, so it must be implemented and enforced. Article 22B includes N.C.G.S. § 113-300.7, which requires the Wildlife Resources Commission (WRC) and the MFC to adopt rules necessary to carry out the purpose of Article 22B. The WRC has adopted its rules. For the purposes of the Interstate Wildlife Violator Compact, "wildlife" includes marine and estuarine resources managed by the MFC and the Division of Marine Fisheries (DMF).

2025-2026 Rulemaking Cycle (9 rules)

At its May 2025 business meeting, the MFC approved Notice of Text for Rulemaking to begin the process for nine rules about permits, and franchises and shellfish leases. A summary of the proposed rules by subject is provided below. A table showing the timing of the steps in the process is included in the rulemaking section of the briefing materials. On August 1, 2025, the proposed rules were published in the *N.C. Register*, beginning the public comment period; a news release was issued August 1, 2025 announcing the public comment period, as well. A public hearing is scheduled to be held on August 26, 2025, at 6 p.m. via WebEx with a listening station in Morehead City. The public comment period will close September 30, 2025. The public comments will be presented to the MFC at its November 2025 business meeting when it is scheduled to vote on final approval of the rules. The proposed rules are automatically subject to legislative review pursuant to Session Law 2019-198 and N.C.G.S. § 14-4.1 no earlier than the 2026 legislative session and thus will have a delayed effective date.

PERMIT RULE AMENDMENTS (5 rules)
(15A NCAC 03I .0101, .0114, 03O .0501-.0503)

Consistent with N.C.G.S. § 150B-19.1, Requirements for agencies in the rule-making process, DMF employees reviewed several MFC rules with permit requirements. DMF employees identified proposed amendments to several rules that would achieve a variety of actions. These actions would add requirements to permanent rules that are no longer variable in nature, increase efficiencies for quota monitoring, protect DMF employees and improve data collection and public health protection, reduce the burden on regulated stakeholders, clarify rules, and remove outdated or unnecessary requirements from rules.

An issue paper was provided to the MFC at its May 2025 business meeting that provides information about the affected permits, processes, and requirements, as well as a detailed description of the proposed rule amendments, which are expected to accomplish the following:

- Update and clarify MFC rules, including:
    - Adding four permits to permanent rule that are currently issued by proclamation;

  - Clarifying a fish dealer is required to submit a trip ticket for fish not sold consistent with N.C. law and MFC rules for commercial harvest reporting requirements;
  - Relocating from proclamation to rule the permit condition that makes it unlawful to refuse to allow DMF employees to obtain data for the conservation and management of marine and estuarine resources;
  - Broadening the definition of "educational institution" to better align with the original purpose of two permits;
  - Adding links to webpages in rules for supporting information that can change frequently;
  - Repealing the Horseshoe Crab Biomedical Use Permit;
- Reduce burden on regulated stakeholders, including:
  - Adding email as an additional means to satisfy call-in requirements for two permits; and
  - Removing the requirement to notarize a permit application, instead requiring the initial permit general condition form to be notarized. This is a more appropriate time in the permit issuance process to verify a permittee's identity; and
- Achieve efficiencies for quota monitored fisheries by requiring any seafood dealer that reports trip tickets electronically to report quota monitoring logs electronically.

CONFORMING RULE AMENDMENTS FOR FRANCHISES AND SHELLFISH LEASES
(5 rules)
(15A NCAC 03I .0101, 03O .0201, .0207, .0208, .0210)

Shellfish franchises recognized under N.C.G.S. § 113-206 are perpetual. The DMF has understood that because franchises are perpetual, the DMF does not have the authority to terminate franchises and thus subjecting a franchise to production requirements would have no consequence. The N.C. General Assembly codified this understanding with the passage of Session Law 2024-32, Section 5.(a), which removed franchises from the production requirements of Session Law 2019-37, Section 3. The MFC's authority over private and protected deeded rights of a shellfish franchise is limited to subjects such as proper marking requirements and permitting of the aquaculture activities occurring on a franchise. So, proposed amendments include the removal of franchises from all shellfish production requirements, as the production requirements are grounds for termination of a leasehold only. Proposed amendments also remove franchises from the rule for termination procedures.

Additional proposed amendments in 15A NCAC 03O .0201, in Paragraphs (d) through (g), clarify production requirements for shellfish leases based on the date a shellfish lease was granted or last renewed. Additional amendments to Paragraphs (i) and (j) clarify who determines eligibility for additional shellfish lease acreage, the time at which the determination of eligibility for additional acreage occurs, what is considered additional shellfish lease acreage, and what is considered acres under a shellfish lease. An issue paper was provided to the MFC at its May 2025 business meeting that provides background information and a detailed description of the proposed rule amendments.

While clarifying amendments are proposed in this issue paper for shellfish leaseholders, it is important to note that the primary reason for the proposed rule amendments is to undertake a paper exercise to align MFC rules with current DMF procedures and N.C. General Assembly authority for shellfish aquaculture, neither of which has changed in practice in recent years relative to requirements for franchises. This issue paper presents a single option for consideration, as it is the only option that achieves the objective of the proposed rule changes: to align with current statutory authority and DMF procedures for franchises and shellfish leases, consistent with N.C. Session Law 2019-37, Section 3 as amended by N.C. Session Law 2024-32, Section 5.(a), as well as rulemaking requirements in the Administrative Procedure Act. This option complies with State law and clarifies MFC rules by removing out-of-date requirements, but it requires undergoing the lengthy rulemaking process.

N.C. Marine Fisheries Commission
2024-2025 Annual Rulemaking Cycle

August 2025

Time of Year	Action
February-July 2024	Fiscal analysis of rules prepared by DMF staff and approved by Office of State Budget and Management
Aug. 23, 2024	MFC approved Notice of Text for Rulemaking
Oct. 1, 2024	Publication of proposed rules in the *North Carolina Register*
Oct. 1-Dec. 2, 2024	Public comment period held
Oct. 30, 2024, 6 p.m.	Public hearing held via WebEx with listening station
March 12, 2025	MFC received public comments and gave final approval of eight permanent rules
April 24, 2025	Two rules subject to legislative review approved by Office of Administrative Hearings/Rules Review Commission (15A NCAC 03J .0301, 03M .0523)
May 29, 2025	Five rules approved by Office of Administrative Hearings/Rules Review Commission and one rule withdrawn (15A NCAC 03O .0600)
June 1, 2025	Effective date of five rules not automatically subject to legislative review
June 1, 2025	Rulebook supplement available online
2026 legislative session	Possible effective date of two rules subject to legislative review per S.L. 2019-198 and G.S. 14-4.1, and G.S. 150B-21.3

N.C. Marine Fisheries Commission
2025-2026 Annual Rulemaking Cycle

August 2025

Time of Year	Action
February-April 2025	Fiscal analysis of rules prepared by DMF staff and approved by Office of State Budget and Management
May 22, 2025	MFC approved Notice of Text for Rulemaking
Aug. 1, 2025	Publication of proposed rules in the *North Carolina Register*
Aug. 1-Sept. 30, 2025	Public comment period held
August 26, 2025, 6 p.m.	Public hearing held via WebEx with listening station at NCDEQ Division of Marine Fisheries Central District Office at 5285 Highway 70 West, Morehead City
November 2025	MFC receives public comments and votes on final approval of permanent rules
January 2026	Rules reviewed by Office of Administrative Hearings/ Rules Review Commission
2026 legislative session	Possible effective date of rules subject to legislative review per S.L. 2019-37, Section 3, as amended by S.L. 2024-32, Section 5.(a); and S.L. 2019-198
2026 legislative session	Rulebook supplement available online pending legislative review process

Aug. 1, 2025

Comment period opens, public hearing scheduled for marine fisheries rules

MOREHEAD CITY – The N.C. Marine Fisheries Commission is accepting public comment on nine proposed rules pertaining to permits, and franchises and shellfish leases.

A public hearing will be held by WebEx on Aug. 26, 2025, at 6 p.m. A listening station will be established at the NCDEQ Division of Marine Fisheries Central District Office at 5285 Highway 70 West, Morehead City.

The public may join the meeting online; however, those who wish to comment during the hearing must register to speak by noon on the day of the hearing. Those who wish to speak at the listening station may sign up when they arrive.

WHO: Marine Fisheries Commission
WHAT: Public Hearing for Proposed Rules
WHEN: Aug. 26, 2025, at 6 p.m.
WHERE: Meeting by Web Conference

Members of the public may also submit written comments through an online form or through the mail to:

N.C. Marine Fisheries Commission Rules Comments
P.O. Box 769
Morehead City, N.C. 28557

Comments must be posted online or received by the Division of Marine Fisheries by 5 p.m. Sept. 30, 2025.

Links to the public hearing registration form and online comment form, as well as text of the proposed rules and links to join the meeting, can be found on the N.C. Marine Fisheries Commission's 2025-2026 Proposed Rules Webpage.

Permit Rule Amendments – Proposed amendments to five rules (15A NCAC 03I .0101, .0114, 03O .0501-.0503) would:

- Require any seafood dealer that reports trip tickets electronically to report quota monitoring logs electronically;

- Add four permits to permanent rule that are currently issued by proclamation, including a dealer permit for the estuarine flounder fishery and the Estuarine Gill Net Permit. There are no changes to current requirements;
- Clarify a fish dealer is required to submit a trip ticket for fish not sold consistent with North Carolina law and MFC rules for commercial harvest reporting requirements;
- Relocate from proclamation to rule the permit condition that makes it unlawful to refuse to allow DMF employees to obtain data for the conservation and management of marine and estuarine resources;
- Broaden the definition of "educational institution" to include schools and educational organizations;
- Add links to webpages in rules for supporting information that can change frequently;
- Repeal the Horseshoe Crab Biomedical Use Permit due to lack of use. Harvest would continue to be allowed during the open commercial bait harvest season;
- Add email as an additional means to satisfy call-in requirements for two permits; and
- Remove the requirement to notarize a permit application and instead require only the initial permit general condition form to be notarized.

Shellfish Leases and Franchises Rule Amendments: Proposed amendments to 5 rules (15A (NCAC 03I .0101, 03O .0201, .0207, .0208, .0210) would codify current procedures and align rules with state laws by:

- Removing franchises from productions requirements and termination procedures;
- Clarifying that production requirements for shellfish leases are based on the date a shellfish lease was granted or last renewed; and
- Clarifying who determines eligibility for additional shellfish lease acreage, the time at which the determination of eligibility for additional acreage occurs, what is considered additional shellfish lease acreage, and what is considered acres under a shellfish lease.

The proposed rule changes will be presented to the N.C. Marine Fisheries Commission for final approval in November 2025. If approved, the effective date of the rules would be pending legislative review in 2026.

For questions about the N.C. Marine Fisheries Commission rulemaking process, email Catherine Blum, rules coordinator for the Division of Marine Fisheries.

For More Information
Contact: Patricia Smith
Phone: 252-515-5500

Website: https://www.deq.nc.gov/dmf
Facebook: https://www.facebook.com/NCMarineFisheries

Instagram: https://www.instagram.com/NC_DMF
Twitter: https://twitter.com/NC_DMF
P.O. Box 769, 3441 Arendell St., Morehead City N.C. 28577

NORTH CAROLINA REGISTER

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PUBLISHED BY
The Office of Administrative Hearings
Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
Telephone 984-236-1850
Fax 984-236-1947

Melissa Owens Lassiter, Director
Brian Liebman, Codifier of Rules
Julie B. Eddins, Publications Coordinator

Contact List for Rulemaking Questions or Concerns

For questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address but are not inclusive.

Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.

Office of Administrative Hearings
Rules Division
1711 New Hope Church Road — 984-236-1850
Raleigh, North Carolina 27609 — 984-236-1947 FAX

contact:	Brian Liebman, Codifier of Rules	brian.liebman@oah.nc.gov	984-236-1941
	Julie B. Eddins, Publications Coordinator	julie.eddins@oah.nc.gov	984-236-1937

Rule Review and Legal Issues

Rules Review Commission
1711 New Hope Church Road — 984-236-1850
Raleigh, North Carolina 27609 — 984-236-1947 FAX

contact:	Seth M. Ascher, Commission Counsel	seth.ascher@oah.nc.gov	984-236-1934
	Travis Wiggs, Commission Counsel	travis.wiggs@oah.nc.gov	984-236-1929
	Alexander Burgos, Paralegal	alexander.burgos@oah.nc.gov	984-236-1940

Fiscal Notes & Economic Analysis

Office of State Budget and Management
116 West Jones Street
Raleigh, North Carolina 27603-8005
Contact: Julie Ventaloro, Economic Analyst — osbmruleanalysis@osbm.nc.gov — 984-236-0694

Fiscal Research Division
Legislative Office Building
300 N. Salisbury Street, Suites 619 and 400
Raleigh, NC 27603-5925
Contact: Brian Matteson — brian.matteson@ncleg.gov — 919-733-4910

NC Association of County Commissioners — 919-715-2893
215 North Dawson Street
Raleigh, North Carolina 27603
contact: Amy Bason — amy.bason@ncacc.org

NC League of Municipalities — 919-715-2925
424 Fayetteville Street, Suite 1900
Raleigh, North Carolina 27601
contact: Baxter Wells — bwells@nclm.org

Legislative Process Concerning Rulemaking

545 Legislative Office Building
300 North Salisbury Street — 919-733-2578
Raleigh, North Carolina 27611 — 919-715-5460 FAX

Jason Moran-Bates, Staff Attorney
Chris Saunders, Staff Attorney
Aaron McGlothlin, Staff Attorney

NORTH CAROLINA REGISTER

Publication Schedule for January 2025 – December 2025

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270th day from publication in the Register
39:13	01/02/25	12/06/24	01/17/25	03/03/25	03/20/25	04/24/2025	05/01/25	09/29/25
39:14	01/15/25	12/19/24	01/30/25	03/17/25	03/20/25	04/24/2025	05/01/25	10/12/25
39:15	02/03/25	01/10/25	02/18/25	04/04/25	04/20/25	05/29/2025	06/01/25	10/31/25
39:16	02/17/25	01/27/25	03/04/25	04/21/25	05/20/25	06/26/2025	07/01/25	11/14/25
39:17	03/03/25	02/10/25	03/18/25	05/02/25	05/20/25	06/26/2025	07/01/25	11/28/25
39:18	03/17/25	02/24/25	04/01/25	05/16/25	05/20/25	06/26/2025	07/01/25	12/12/25
39:19	04/01/25	03/11/25	04/16/25	06/02/25	06/20/25	07/30/2025	08/01/25	12/27/25
39:20	04/15/25	03/25/25	04/30/25	06/16/25	06/20/25	07/30/2025	08/01/25	01/10/26
39:21	05/01/25	04/09/25	05/16/25	06/30/25	07/20/25	08/28/2025	09/01/25	01/26/26
39:22	05/15/25	04/24/25	05/30/25	07/14/25	07/20/25	08/28/2025	09/01/25	02/09/26
39:23	06/02/25	05/09/25	06/17/25	08/01/25	08/20/25	09/25/2025	10/01/25	02/27/26
39:24	06/16/25	05/23/25	07/01/25	08/15/25	08/20/25	09/25/2025	10/01/25	03/13/26
40:01	07/01/25	06/10/25	07/16/25	09/02/25	09/20/25	10/30/2025	11/01/25	03/28/26
40:02	07/15/25	06/23/25	07/30/25	09/15/25	09/20/25	10/30/2025	11/01/25	04/11/26
40:03	08/01/25	07/11/25	08/16/25	09/30/25	10/20/25	11/20/2025	12/01/25	04/28/26
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40:05	09/02/25	08/11/25	09/17/25	11/03/25	11/20/25	12/18/2025	01/01/26	05/30/26
40:06	09/15/25	08/22/25	09/30/25	11/14/25	11/20/25	12/18/2025	01/01/26	06/12/26
40:07	10/01/25	09/10/25	10/16/25	12/01/25	12/20/25	*01/29/2026	02/01/26	06/28/26
40:08	10/15/25	09/24/25	10/30/25	12/15/25	12/20/25	*01/29/2026	02/01/26	07/12/26
40:09	11/03/25	10/13/25	11/18/25	01/02/26	01/20/26	*02/26/2026	03/01/26	07/31/26
40:10	11/17/25	10/24/25	12/02/25	01/16/26	01/20/26	*02/26/2026	03/01/26	08/14/26
40:11	12/01/25	11/05/25	12/16/25	01/30/26	02/20/26	*03/26/2026	04/01/26	08/28/26
40:12	12/15/25	11/20/25	12/30/25	02/13/26	02/20/26	*03/26/2026	04/01/26	09/11/26

*Dates not approved by RRC

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

(1) temporary rules;
(2) text of proposed rules;
(3) text of permanent rules approved by the Rules Review Commission;
(4) emergency rules
(5) Executive Orders of the Governor;
(6) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
(7) other information the Codifier of Rules determines to be helpful to the public.

COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

FILING DEADLINES

ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Human Resources Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days but not later than 60 days after the date a notice of the hearing is published.

END OF REQUIRED COMMENT PERIOD An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published.

DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.

~~(29)~~(30) Nitrogen, Total Kjeldahl;
~~(30)~~(31) Oil and Grease;
~~(31)~~(32) Orthophosphate;
~~(32)~~(33) Paint Filter Liquids;
~~(33)~~(34) pH;
~~(34)~~(35) Phenols;
~~(35)~~(36) Phosphorus, Total;
~~(36)~~(37) Residue, Settleable;
~~(37)~~(38) Residue, Total;
~~(38)~~(39) Residue, Total Dissolved;
~~(39)~~(40) Residue, Total Suspended;
~~(40)~~(41) Residue, Volatile;
~~(41)~~(42) Salinity;
~~(42)~~(43) Salmonella;
~~(43)~~(44) Silica;
~~(44)~~(45) Sulfate;
~~(45)~~(46) Sulfide;
~~(46)~~(47) Sulfite;
~~(47)~~(48) Temperature;
~~(48)~~(49) Total Organic Carbon;
~~(49)~~(50) Turbidity;
~~(50)~~(51) Vector Attraction Reduction: Option 1;
~~(51)~~(52) Vector Attraction Reduction: Option 2;
~~(52)~~(53) Vector Attraction Reduction: Option 3;
~~(53)~~(54) Vector Attraction Reduction: Option 4;
~~(54)~~(55) Vector Attraction Reduction: Option 5;
~~(55)~~(56) Vector Attraction Reduction: Option 6;
~~(56)~~(57) Vector Attraction Reduction: Option 7;
~~(57)~~(58) Vector Attraction Reduction: Option 8; and
~~(58)~~(59) Vector Attraction Reduction: Option 12.

(c) Metals: Each of the metals listed in this Paragraph shall be considered a certifiable Parameter. One or more Parameter Methods shall be listed with a laboratory's certified Parameters. Analytical methods shall be determined from the sources listed in Rule .0805(a)(1) of this Section. Certifiable metals are as follows:

(1) Aluminum;
(2) Antimony;
(3) Arsenic;
(4) Barium;
(5) Beryllium;
(6) Boron;
(7) Cadmium;
(8) Calcium;
(9) Chromium, Hexavalent (Chromium VI);
(10) Chromium, Total;
(11) Chromium, Trivalent (Chromium III);
(12) Cobalt;
(13) Copper;
(14) Hardness, Total (Calcium + Magnesium);
(15) Iron;
(16) Lead;
(17) Lithium;
(18) Magnesium;
(19) Manganese;
(20) Mercury;
(21) Molybdenum;
(22) Nickel;
(23) Potassium;
(24) Phosphorus;
(25) Selenium;
(26) Silica;
(27) Silver;
(28) Sodium;
(29) Strontium;
(30) Thallium;
(31) Tin;
(32) Titanium;
(33) Vanadium; and
(34) Zinc.

(d) Organics: Each of the organic Parameters listed in this Paragraph shall be considered a certifiable Parameter. One or more Parameter Methods shall be listed with a laboratory's certified Parameters. Analytical methods shall be determined from the sources listed in Rule .0805(a)(1) of this Section. Certifiable organic Parameters are as follows:

(1) 1,2-Dibromoethane (EDB); 1,2-Dibromo-3-chloro-propane (DBCP); 1,2,3-Trichloropropane (TCP);
(2) Acetonitrile;
(3) Acrolein, Acrylonitrile;
(4) Adsorbable Organic Halides;
(5) Base/Neutral and Acid Organics;
(6) Benzidines;
(7) Chlorinated Acid Herbicides;
(8) Chlorinated Hydrocarbons;
(9) Chlorinated Phenolics;
(10) Explosives;
(11) Extractable Petroleum Hydrocarbons;
(12) Haloethers;
(13) N-Methylcarbamates;
(14) Nitroaromatics and Isophorone;
(15) Nitrosamines;
(16) Nonhalogenated Volatile Organics;
(17) Organochlorine Pesticides;
(18) Organophosphorus Pesticides;
(19) Per- and polyfluoroalkyl substances (PFAS);
(20) Pharmaceutical Pollutants
~~(20)~~(21) Phenols;
~~(21)~~(22) Phthalate Esters;
~~(22)~~(23) Polychlorinated Biphenyls;
~~(23)~~(24) Polynuclear Aromatic Hydrocarbons;
~~(24)~~(25) Purgeable Aromatics;
~~(25)~~(26) Purgeable Halocarbons;
~~(26)~~(27) Purgeable Organics;
~~(27)~~(28) Total Organic Halides;
~~(28)~~(29) Total Petroleum Hydrocarbons – Diesel Range Organics;
~~(29)~~(30) Total Petroleum Hydrocarbons – Gasoline Range Organics; and
~~(30)~~(31) Volatile Petroleum Hydrocarbons.

Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); Eff. February 1, 1976.

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***Notice** is hereby given in accordance with G.S. 150B-21.2 that the Marine Fisheries Commission intends to amend the rules cited as*

15A NCAC 03I .0101, .0114; 03O .0201, .0207, .0208, .0210, and .0501-.0503.

Link to agency website pursuant to G.S. 150B-19.1(c): *https://deq.nc.gov/mfc-proposed-rules*

Proposed Effective Date: *Subject to Legislative Review*

Public Hearing:
Date: *August 26, 2025*
Time: *6:00 pm*
Location: *WebEx Events meeting link: https://ncgov.webex.com/ncgov/j.php?MTID=m5bba69179ac81774461e45721b2f9452 Event number: 2426 352 8767 Event password: 1234 Event phone number: 1-415-655-0003 Access code: 242 635 28767 Listening station: Division of Marine Fisheries Central District Office, 5285 Highway 70 West, Morehead City, NC 28557*

Reason for Proposed Action:

Permits

15A NCAC 03I .0101 DEFINITIONS
Proposed amendments broaden the definition of "educational institution" to better align with the original purpose of the Scientific and Educational Activity Permit and Coastal Recreational Fishing License Exemption Permit. Additional proposed amendments add a definition of "quota monitoring log" in support of requirements for dealer permits for monitoring fisheries under a quota or allocation, and a definition of "permittee" to address the ubiquitous and interchangeable use of "permittee" and "permit holder" (which is already defined) throughout N.C. Marine Fisheries Commission rules.

15A NCAC 03I .0114 RECORDKEEPING REQUIREMENTS
Proposed amendments set the same recordkeeping requirements for quota monitoring logs as for trip tickets for licensed fish dealers but apply only to dealers holding a permit for monitoring fisheries under a quota or allocation. Additional proposed amendments clarify a fish dealer is required to submit a trip ticket for fish not sold consistent with N.C. law and MFC rules for commercial harvest reporting requirements.

15A NCAC 03O .0501 PROCEDURES AND REQUIREMENTS TO OBTAIN PERMITS
Proposed amendments remove the requirement for a permit application signature to be notarized, instead requiring the initial permit general condition form to be notarized. This is a more appropriate time in the permit issuance process to verify a permittee's identity. Additional proposed amendments clarify existing requirements for holders of an Estuarine Gill Net Permit to hold a valid Recreational Commercial Gear License, Standard Commercial Fishing License, or Retired Standard Commercial Fishing License. Proposed amendments also add a link to the N.C. Division of Marine Fisheries website to access permit applications and related information.

15A NCAC 03O .0502 GENERAL PERMIT CONDITIONS
Proposed amendments relocate from proclamation to rule the permit condition that makes it unlawful to refuse to allow N.C. Division of Marine Fisheries (DMF) employees to obtain data for the conservation and management of marine and estuarine resources, and data for the protection of public health related to the public health programs that fall under the authority of the N.C. Marine Fisheries Commission. These requirements are in five other N.C. Marine Fisheries Commission rules, so the proposed amendments would bring consistency across rules and add clarity for regulated stakeholders.

15A NCAC 03O .0503 PERMIT CONDITIONS; SPECIFIC
Proposed amendments address seven items. First, proposed amendments relocate four existing permits from proclamation into rule: Estuarine Gill Net Permit, Estuarine Flounder Dealer Permit, Shellfish Lease Restoration Permit, and Shellfish Relocation Permit to aid in the clarity of existing requirements for the public. Relocating the permit requirements in rule has no real impact on holders of the permits as the application process, permit conditions, and reporting requirements would not change. Second, proposed amendments require any seafood dealer that reports trip tickets electronically be required to report quota monitoring logs electronically, improving the timeliness and accuracy of reporting. Third, proposed amendments include email as a way to satisfy the call-in requirements for Scientific and Educational Activity Permits and Permits for Weekend Trawling for Live Shrimp, making it easier for regulated stakeholders to forward required information to the N.C. Division of Marine Fisheries and improving the tracking of activity by the Division. Fourth, proposed amendments clarify requirements for a Coastal Recreational Fishing License Exemption Permit to reflect proposed changes to another rule that broadens the definition of "educational institution", to better align with the original purpose of the permit. Fifth, proposed amendments add a link to the N.C. Division of Marine Fisheries website to access information about which Division offices issue striped bass tags for permitted dealers. Sixth, management for horseshoe crabs falls under the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab, which establishes state-by-state quotas in all Atlantic states for horseshoe crabs harvested for bait and the requirement to collect information on the use of horseshoe crabs for biomedical purposes. The Horseshoe Crab Biomedical Use Permit was designed to collect that information but is proposed for repeal because the industry has not shown the anticipated growth since its inception over 25 years ago. Eliminating the permit would not disallow use of horseshoe crabs for biomedical purposes in North Carolina, but access to horseshoe crabs would be limited to the open commercial bait harvest season and counted towards the annual bait quota to maintain compliance with the Interstate Fishery Management Plan. Lastly, proposed amendments add nongovernmental conservation organizations as entities eligible for a Scientific or Educational Activity Permit that exempts the holder from N.C. license, rule, proclamation, or statutory requirements for approved scientific, educational, or conservation activities, pursuant to S.L. 2015-241, s. 14.10A.

Franchises and Shellfish Leases

15A NCAC 03I .0101 DEFINITIONS
Proposed amendments clarify the existing definition of "holder" to align occurrences of "franchise holder" throughout N.C. Marine Fisheries Commission rules with shellfish franchises recognized pursuant to N.C.G.S. § 113-206.

15A NCAC 03O .0201 STANDARDS AND REQUIREMENTS FOR SHELLFISH LEASES AND FRANCHISES
Proposed amendments include the removal of franchises from all shellfish production requirements, as the production requirements are grounds for termination of a leasehold only. Shellfish franchises recognized under N.C.G.S. § 113-206 are perpetual. The N.C. Division of Marine Fisheries has understood that because franchises are perpetual, the Division does not have the authority to terminate franchises and thus subjecting a franchise to production requirements would have no consequence. The N.C. General Assembly codified this understanding with the passage of Session Law 2024-32, Section 5.(a), which removed franchises from the production requirements of Session Law 2019-37, Section 3. The N.C. Marine Fisheries Commission's authority over private and protected deeded rights of a shellfish franchise is limited to subjects such as proper marking requirements and permitting of the aquaculture activities occurring on a franchise. Additional amendments in paragraphs (d) through (g) clarify production requirements for shellfish leases based on the date a shellfish lease was granted or last renewed. Additional amendments to paragraphs (a) and (i) clarify who determines eligibility for additional shellfish lease acreage, the time at which the determination of eligibility for additional acreage occurs, what is considered additional shellfish lease acreage, and what is considered acres under a shellfish lease.

15A NCAC 03O .0207 SHELLFISH LEASE AND FRANCHISE PRODUCTION REPORTS
Proposed amendments remove franchises from production report requirements. Franchises are perpetual and not subject to termination, and compliant production reports relate to procedures for termination.

15A NCAC 03O .0208 TERMINATION PROCEDURES FOR SHELLFISH LEASES AND FRANCHISES
Proposed amendments align the rule with Session Law 2024-32, Section 5.(a), by eliminating references to franchises.

15A NCAC 03O .0210 STANDARDS AND REQUIREMENTS FOR FRANCHISES
Proposed amendments clarify the proper activation of a shellfish franchise enables the franchise to be permitted, remove the time limit of 30 days following activation, and remove the method for evaluating production of a franchise, as franchises are perpetual and not subject to termination.

Comments may be submitted to: *Catherine Blum, PO Box 769, Morehead City, NC 28557 (Written comments may also be submitted via an online form available at https://deq.nc.gov/mfc-proposed-rules.)*

Comment period ends: *September 30, 2025*

Rule(s) is automatically subject to legislative review: *S.L. 2019-37, Section 3, as amended by S.L. 2024-32, Section 5.(a): 15A NCAC 03O .0201; S.L. 2019-198: 15A NCAC 03I .0114, 03O .0501-.0503*

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.
☒ **State funds affected**
☐ **Local funds affected**
☐ **Substantial economic impact (>= $1,000,000)**
☒ **Approved by OSBM**
☐ **No fiscal note required**

CHAPTER 03 - MARINE FISHERIES

SUBCHAPTER 03I – GENERAL RULES

SECTION .0100 – GENERAL RULES

15A NCAC 03I .0101 DEFINITIONS
All definitions set out in G.S. 113, Subchapter IV and the following additional terms shall apply to this Chapter:

(1) enforcement and management terms:
  (a) "Commercial quota" means total quantity of fish allocated for harvest by commercial fishing operations.
  (b) "Educational institution" means a college, university, or community college accredited by an accrediting agency recognized by the U.S. Department of Education; an Environmental Education Center certified by the N.C. Department of Environmental Quality Office of Environmental Education and Public Affairs; ~~or~~ a zoo or aquarium certified by the Association of Zoos and ~~Aquariums.~~ Aquariums; or a public school unit, private school, or an organization whose mission includes education.
  (c) "Internal Coastal Waters" or "Internal Waters" means all Coastal Fishing Waters except the Atlantic Ocean.
  (d) length of finfish:
    (i) "Curved fork length" means a length determined by measuring along a line tracing the contour of the body from the tip of the upper jaw to the middle of the fork in the caudal (tail) fin.
    (ii) "Fork length" means a length determined by measuring along a straight line the distance from the tip of the snout with the mouth closed

to the middle of the fork in the caudal (tail) fin, except that fork length for billfish is measured from the tip of the lower jaw to the middle of the fork of the caudal (tail) fin.

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

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

(e) "Nongovernmental conservation organization" means an organization whose primary 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;
(ii) a state or federal agency charged with the management of marine or estuarine resources; or
(iii) a professional organization or secondary school working under the direction of, or in compliance with mandates from, the entities listed in Sub-items (j)(i) and (ii) of this Item.

(2) fishing activities:
(a) "Aquaculture operation" means an operation that produces artificially propagated stocks of marine or estuarine resources, or other non-native species that may thrive if introduced into Coastal Fishing Waters, or obtains such stocks from permitted sources for the purpose of rearing on private bottom (with or without the superadjacent water column) or in a controlled environment. A controlled environment provides and maintains throughout the rearing process one or more of the following:
(i) food;
(ii) predator protection;
(iii) salinity;
(iv) temperature controls; or
(v) water circulation, utilizing technology not found in the natural environment.
(b) "Attended" means being in a vessel, in the water or on the shore, and immediately available to work the gear and be within 100 yards of any gear in use by that person at all times. Attended does not include being in a building or structure.
(c) "Blue crab shedding" means the process whereby a blue crab emerges soft from its former hard exoskeleton. A shedding operation is any operation that holds peeler crabs in a controlled environment. A controlled environment provides and maintains throughout the shedding process one or more of the following:
(i) food;
(ii) predator protection;
(iii) salinity;
(iv) temperature controls; or
(v) water circulation, utilizing technology not found in the natural environment. A shedding operation does not include transporting pink or red-line peeler crabs to a permitted shedding operation.
(d) "Depurate" or "depuration" has the same meaning as defined in the 2019 revision of the NSSP Guide for the Control of Molluscan Shellfish, Section I: Purpose and Definitions. This definition is incorporated by reference, not 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.
(e) "Long haul operation" means fishing a seine towed between two vessels.
(f) "Peeler crab" means a blue crab that has a soft shell developing under a hard shell and having a white, pink, or red-line or rim on the outer edge of the back fin or flipper.
(g) "Possess" means any actual or constructive holding whether under claim of ownership or not.
(h) "Recreational purpose" means a fishing activity that is not a commercial fishing operation as defined in G.S. 113-168.
(i) "Swipe net operations" means fishing a seine towed by one vessel.
(j) "Transport" means to ship, carry, or cause to be carried or moved by public or private carrier by land, sea, or air.
(k) "Use" means to employ, set, operate, or permit to be operated or employed.

(3) gear:
(a) "Bunt net" means the last encircling net of a long haul or swipe net operation constructed of small mesh webbing. The bunt net is used to form a pen or pound from which the catch is dipped or bailed.
(b) "Channel net" means a net used to take shrimp that is anchored or attached to the bottom at both ends or with one end anchored or attached to the bottom and the other end attached to a vessel.
(c) "Commercial fishing equipment or gear" means all fishing equipment used in Coastal Fishing Waters except:
(i) cast nets;
(ii) collapsible crab traps, a trap used for taking crabs with the largest open dimension no larger than 18 inches and that by design is collapsed at all

times when in the water, except when it is being retrieved from or lowered to the bottom;

(iii) dip nets or scoops having a handle not more than eight feet in length and a hoop or frame to which the net is attached not exceeding 60 inches along the perimeter;

(iv) gigs or other pointed implements that are propelled by hand, whether or not the implement remains in the hand;

(v) hand operated rakes no more than 12 inches wide and weighing no more than six pounds and hand operated tongs;

(vi) hook and line, and bait and line equipment other than multiple-hook or multiple-bait trotline;

(vii) landing nets used to assist in taking fish when the initial and primary method of taking is by the use of hook and line;

(viii) minnow traps when no more than two are in use;

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

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

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

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

(a) "Assignment" means temporary transferal to another person of privileges under a license for which assignment is permitted. The person assigning the license delegates the privileges permitted under the license to be exercised by the assignee, but retains the power to revoke the assignment at any time, and is still the responsible party for the license.

(b) "Designee" means any person who is under the direct control of the permittee or who is employed by or under contract to the permittee for the purposes authorized by the permit.

(c) "For hire vessel", as defined by G.S. 113-174, means when the vessel is fishing in State waters or when the

vessel originates from or returns to a North Carolina port.

(d) "Franchise" means a franchise recognized pursuant to G.S. 113-206.

(e) "Holder" means a person who has been lawfully issued in the person's name a license, permit, ~~franchise,~~ shellfish lease, or ~~assignment.~~ assignment, or who possesses a shellfish franchise recognized pursuant to G.S. 113-206.

(f) "Land" means:

(i) for commercial fishing operations, when fish reach the shore or a structure connected to the shore.

(ii) for purposes of trip tickets, when fish reach a licensed seafood dealer, or where the fisherman is the dealer, when fish reach the shore or a structure connected to 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.

~~(l)~~(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.

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

~~(o)~~(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.

Authority G.S. 113-134; 113-174; 113-182; 143B-289.52; S.L. 2015-241, s. 14.10A.

15A NCAC 03I .0114 RECORDKEEPING REQUIREMENTS

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

(1) to record false information on the North Carolina trip ticket or to fail to legibly record all items on the North Carolina trip ticket for each ~~transaction~~ transaction, including for fish harvested but not sold pursuant to 15A NCAC 03I .0123, and submit the trip ticket in accordance with G.S. 113-168.2, including the following:
  (A) fisherman's name;
  (B) fisherman's North Carolina license number;
  (C) dealer's North Carolina license number;
  (D) start date of trip, including year, month, and day;
  (E) unload date of trip, including year, month, and day;
  (F) North Carolina Division of Marine Fisheries Vessel Identification Number or indicate if no vessel was used;
  (G) crew size;
  (H) gear fished;
  (I) waterbody fished;
  (J) species landed;
  (K) quantity of each species landed in pounds, numbers of fish, bushels, or other units of measurement;
  (L) disposition of species;
  (M) transaction number;
  (N) number of crab pots or peeler pots fished, if applicable;
  (O) state where species was taken if other than North Carolina;
  (P) lease number, if applicable;
  (Q) bottom type, if applicable; and
  (R) shellfish harvest area, if ~~applicable.~~ applicable;

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

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

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

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.

SUBCHAPTER 03O - LICENSES, LEASES, FRANCHISES, AND PERMITS

SECTION .0200 – SHELLFISH LEASES AND FRANCHISES

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

(a) For the purpose of this Section:

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

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

(1) the proposed shellfish lease area shall not contain a "natural shellfish bed," as defined in G.S. 113-201.1, or have 10 bushels or more of shellfish per acre;
(2) the proposed shellfish lease area shall not be closer than 250 feet from a developed shoreline or a water-dependent shore-based structure, except no minimum setback is required when the area to be leased borders the applicant's property, the property of "riparian owners" as defined in G.S. 113-201.1 who have consented in a notarized statement, or is in an area bordered by undeveloped shoreline. For the purpose of this Rule, a water-dependent shore-based structure shall include docks, wharves, boat ramps, bridges, bulkheads, and groins;
(3) the proposed shellfish lease area shall not be closer than 250 feet to an existing lease;
(4) the proposed shellfish lease area, either alone or when considered cumulatively with other existing lease areas in the vicinity, shall not interfere with navigation or with existing, traditional uses of the area; and
(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 or franchise.~~ lease. Shellfish transplanted between shellfish leases ~~or franchises~~ shall be credited as planting effort on only one ~~lease or franchise.~~ lease.

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

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

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

(A) 300 oysters, 400 clams, or 400 scallops equal one bushel; and

(B) 40 pounds of scallop shell, 60 pounds of oyster shell, 75 pounds of clam shell, or 90 pounds of fossil stone equal one bushel.

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

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

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

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

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

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

(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 to hold additional shellfish lease acreage, persons holding any acres under a shellfish lease ~~or franchise~~ shall meet the following requirements ~~established in:~~ at the time of submitting a shellfish lease application for additional shellfish 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.

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).

15A NCAC 03O .0207 SHELLFISH LEASE ~~AND FRANCHISE~~ PRODUCTION REPORTS

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

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

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

Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; ~~113-206;~~ 143B-289.52.

15A NCAC 03O .0208 TERMINATION PROCEDURES FOR SHELLFISH LEASES ~~AND FRANCHISES~~

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

(b) Consistent with G.S. 113-202(l1) and G.S. 113-201(b), a shellfish lease ~~or franchise~~ holder that failed to meet the 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 of failure to utilize the lease on a continuing basis for the commercial production of shellfish may be granted a single extension period of no more than two years per contract period upon a showing of hardship by written notice to the Fisheries Director or the Fisheries Director's designee received prior to the expiration of the lease term that documents one of the following occurrences caused or will cause the lease ~~or franchise~~ holder to fail to meet lease requirements:

(1) death, illness, or incapacity of the shellfish lease ~~or franchise~~ holder or the holder's immediate family as defined in G.S. 113-168 that prevented or will prevent the lease ~~or franchise~~ holder from working the lease;

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

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

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

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

Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-205; ~~113-206;~~ 143B-289.52.

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

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

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

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

Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.2; 113-205; 113-206; 143B-289.52.

SECTION .0500 - PERMITS

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

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

(1) the full name, physical address, mailing address, date of birth, and signature of the applicant on the application and, if the applicant is not appearing before a license agent or the designated Division of Marine Fisheries ~~contact, the applicant's signature on the application shall be notarized;~~ contact;

(2) a current picture identification of the applicant, responsible party, or person holding a power of attorney, acceptable forms of which shall include driver's license, North Carolina Identification card issued by the North Carolina Division of Motor Vehicles, military identification card, resident alien card (green

card), or passport or, if applying by mail, a copy thereof;

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

(4) certification that the applicant and his or her designees do not have four or more ~~marine or estuarine resource~~ convictions for violation 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 during the previous three years; and

(5) for permit applications from business entities:

(A) the business name;

(B) the type of business entity: corporation, "educational institution" as defined in 15A NCAC 03I .0101, limited liability company (LLC), partnership, or sole proprietorship;

(C) the name, address, and phone number of responsible party and other identifying information required by this Subchapter or rules related to a specific permit;

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

(E) for a partnership that is established by a written partnership agreement, a current copy of such agreement shall be provided when applying for a permit; and

(F) for business entities other than corporations, copies of current assumed name statements if filed with the Register of Deeds office for the corresponding county and copies of current business privilege tax certificates, if applicable.

(b) A permittee shall hold a valid:

(1) Recreational Commercial Gear License, Standard Commercial Fishing License, or Retired Standard Commercial Fishing License to hold an Estuarine Gill Net Permit.

~~(1)~~(2) Standard or Retired Standard Commercial Fishing License ~~in order~~ to hold:

(A) an Atlantic Ocean Striped Bass Commercial Gear Permit;

(B) a Permit for Weekend Trawling for Live Shrimp; or

(C) a Pound Net Set Permit.

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

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

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

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

(1) Depuration Permit;

(2) Permit to Transplant Oysters from Seed Oyster Management Areas; or

(3) Permit to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises, except as provided in G.S. 113-169.2.

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

(1) Depuration Permit; or

(2) Permit to Transplant Oysters from Seed Oyster Management Areas.

(f) Aquaculture Operation Permit and Aquaculture Collection Permit:

(1) A permittee shall hold a valid Aquaculture Operation Permit issued by the Fisheries Director to hold an Aquaculture Collection Permit.

(2) The permittee or designees shall hold appropriate licenses from the Division of Marine Fisheries for the species harvested and the gear used under the Aquaculture Collection Permit.

(g) Atlantic Ocean Striped Bass Commercial Gear Permit:

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

(A) a gill net;

(B) a trawl net; or

(C) a beach seine.

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

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

Standard Commercial Fishing Licenses, or assignments held by 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.

~~(l)~~(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.

Authority G.S. 113-134; 113-169.1; 113-169.2; 113-169.3; 113-182; 113-210; 143B-289.52.

15A NCAC 03O .0502 GENERAL PERMIT CONDITIONS

(a) It shall be unlawful to violate any permit condition.

(b) The following conditions shall apply to all permits issued by the Fisheries Director:

(1) it shall be unlawful to:

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

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

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

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

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

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

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

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

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

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

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

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

(A) specify time;
(B) specify area;
(C) specify means and methods;
(D) specify record keeping and reporting requirements;
(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.

Authority G.S. 113-134; 113-169.1; 113-170.2; 113-170.3; 113-182; 113-210; 143B-289.52.

15A NCAC 03O .0503 PERMIT CONDITIONS; SPECIFIC

(a) Aquaculture Operation Permit and Aquaculture Collection Permit:

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

(2) It shall be unlawful:

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

(B) to sell or use for any purpose not related to North Carolina aquaculture marine and estuarine resources taken pursuant to an Aquaculture Collection Permit; or

(C) to fail to submit to the Fisheries Director an annual report, due on December 1 of each year on the form provided by the Division of Marine Fisheries, stating the amount and disposition of marine and estuarine resources collected under authority of an Aquaculture Collection Permit.

(3) Aquaculture Operation Permits and Aquaculture Collection Permits shall be issued or renewed on a calendar year basis.

(4) It shall be unlawful to fail to provide the Division with a listing of all designees acting pursuant to an Aquaculture Collection Permit at the time of application.

(b) Atlantic Ocean Striped Bass Commercial Gear Permit:

(1) It shall be unlawful to take striped bass from the Atlantic Ocean in a commercial fishing operation without first obtaining an Atlantic Ocean Striped Bass Commercial Gear Permit.

(2) It shall be unlawful to obtain more than one Atlantic Ocean Striped Bass Commercial Gear Permit during a license year, regardless of the number of Standard Commercial Fishing licenses, Retired Standard Commercial Fishing licenses, or assignments.

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

(d) Coastal Recreational Fishing License Exemption Permit:

(1) It shall be unlawful for the responsible party seeking exemption from recreational fishing license requirements for eligible individuals to conduct an organized fishing event held in Joint or Coastal Fishing Waters without first obtaining a Coastal Recreational Fishing License Exemption Permit.

(2) The Coastal Recreational Fishing License Exemption Permit shall only be issued for recreational fishing activity conducted solely for the participation and benefit of one of the following groups of eligible individuals:

(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 ~~institutions;~~ 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.

~~(4)~~(5) Spiny Dogfish 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 spiny dogfish 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 spiny dogfish per day per commercial fishing operation unless the dealer has a Spiny Dogfish Dealer Permit.

~~(5)~~(6) Striped Bass 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 striped bass shall include the permit number, number of tags used by area, pounds harvested by area, and for the Atlantic Ocean, type of gear used for harvest.

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

(i) the Atlantic Ocean;

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

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

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

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

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

~~(2) It shall be unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to submit an annual report on the use of horseshoe crabs to the Division of Marine Fisheries, due on February 1 of each year. Such reports shall be filed on forms provided by the Division and 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.asmfc.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 03I .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~~ 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.

~~(j)~~(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.

Authority G.S. 113-134; 113-169.1; 113-169.2; 113-169.3; 113-182; 113-210; 143B-289.52.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 16 - DENTAL EXAMINERS

JOSH STEIN
Governor

D. REID WILSON
Secretary

KATHY B. RAWLS
Director

August 1, 2025

MEMORANDUM

TO: N.C. Marine Fisheries Commission

FROM: Jacqui Degan, Fisheries Biologist

SUBJECT: Atlantic Bonito Issue Paper

Issue
Present background information and catch characteristics to the North Carolina Marine Fisheries Commission (MFC) to explore trends in data for Atlantic bonito (*Sarda sarda*). Review potential data trends and solicit feedback from the MFC to incorporate into the draft issue paper.

Objective
Address the MFC's request made at its May 2024 business meeting for N.C. Division of Marine Fisheries (DMF) staff to develop an issue paper for Atlantic bonito management, including landings information, and proposed rule language.

Action Needed
Review and provide input on North Carolina's recreational and commercial Atlantic bonito fisheries for the purpose of developing an issue paper to determine if management is needed. This feedback will be incorporated as staff continue to draft the Atlantic Bonito Issue Paper, including rulemaking language as requested by the MFC.

Background
Atlantic bonito is a small tuna species typically found in tropical to temperate coastal waters of the Atlantic Ocean. Atlantic bonito has become a more popular and targeted fishery in recent years, especially for the recreational sector. Participants associated with the fishery have expressed concern over increases in harvest and targeted trips of the species to both state and federal fisheries managers. In May of this year, the Massachusetts Division of Marine Fisheries enacted the first-ever size and possession limits for both false albacore (little tunny) and Atlantic bonito due to significant growth in the fishery. The Massachusetts Division of Marine Fisheries opted to adopt these precautionary management measures until a more robust science and management program is implemented. Currently, there are no rules for management in place for Atlantic bonito in any other states, but some states are considering management. Management is not currently being pursued at the Atlantic States Marine Fisheries Commission (ASMFC) or federal level, though it has been discussed by the ASMFC and the South Atlantic Fishery Management Council (SAFMC).

From 2011 to 2024, North Carolina recreational landings of Atlantic bonito averaged 116,268 pounds, which accounts for 31% of coastwide (MA to FL) recreational landings and 92% of South Atlantic (NC to FL) recreational landings (Figures 1 and 2). North Carolina commercial landings during this same time averaged 12,633 pounds and accounted for 27% of coastwide commercial landings and 81% of commercial landings in the South Atlantic (Figures 3 and 4).

The stock status of the Atlantic bonito fishery is unknown, primarily because there is very little data available on which to base a stock assessment. Age and growth, sex and maturity, and tagging studies would help fill these data gaps for Atlantic bonito in the western Atlantic; however, funding to complete these studies is limited. Currently, the American Saltwater Guides Association, in collaboration with North Carolina State University and the Nature Conservancy, has initiated several studies with the aim of addressing some of the coast-wide data gaps, including stock structure and migration patterns.

At its May 2024 business meeting, the MFC requested that DMF staff develop an issue paper for Atlantic bonito management, including landings information and proposed rule language, to determine if proactive management is needed. Members of the MFC expressed their concern with the growth of North Carolina's recreational Atlantic bonito fishery in the last several years due to closed recreational fisheries and the availability of new technology that has changed how fishermen are pursuing this fish. While there is no stock assessment currently available for Atlantic bonito, management action may be needed to address the following data trends in NC:

<u>Recreational</u>

- Recreational landings have been trending upwards since 2011, with North Carolina landings accounting for 31% of coastwide landings (MA to FL) and 92% of South Atlantic landings from 2011 to 2024 (NC to FL, Figures 1 and 2).
- Directed recreational trips in NC have doubled since 2019, after remaining steady for the time series (Figure 5).
- Most Atlantic bonito harvested by recreational anglers from 2020–2024 were smaller than the length at first maturity of 15 inches (Figure 6).

<u>Commercial</u>

- North Carolina accounts for 27% of coastwide commercial landings and 81% of South Atlantic commercial landings from 2011 to 2024 (Figures 3 and 4).
- Commercial landings have remained close to the time series average of 12,633 pounds, though commercial landings in 2023 were above that average (17,876 pounds).

Additional information, including a more detailed characterization of the Atlantic bonito fishery coastwide, will be provided in a presentation at the August MFC meeting. DMF staff are actively developing the requested issue paper and proposed rule language. Input from the MFC at the August quarterly business meeting will help guide staff early in the drafting phase and prevent potential delays later in the development process.

Figures

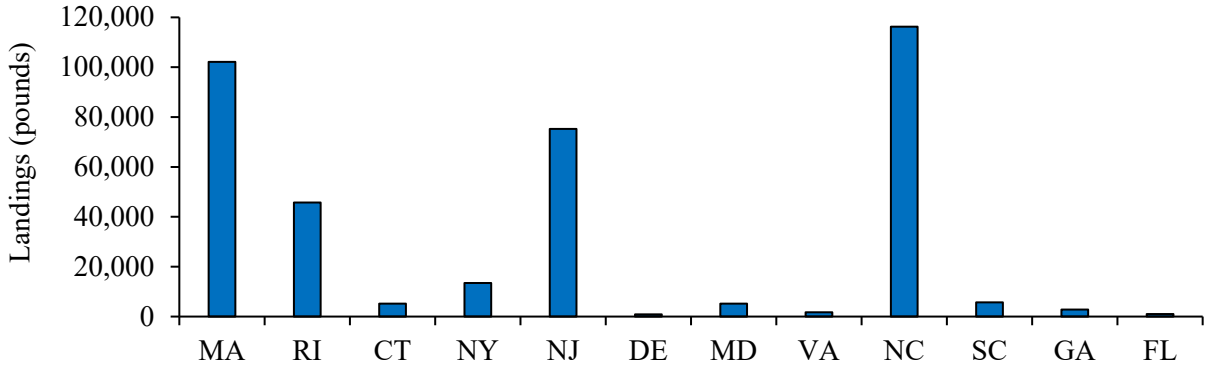


Figure 1. Average Atlantic bonito landings (pounds), MA–FL, 2011–2024. (Source: Marine Recreational Information Program)

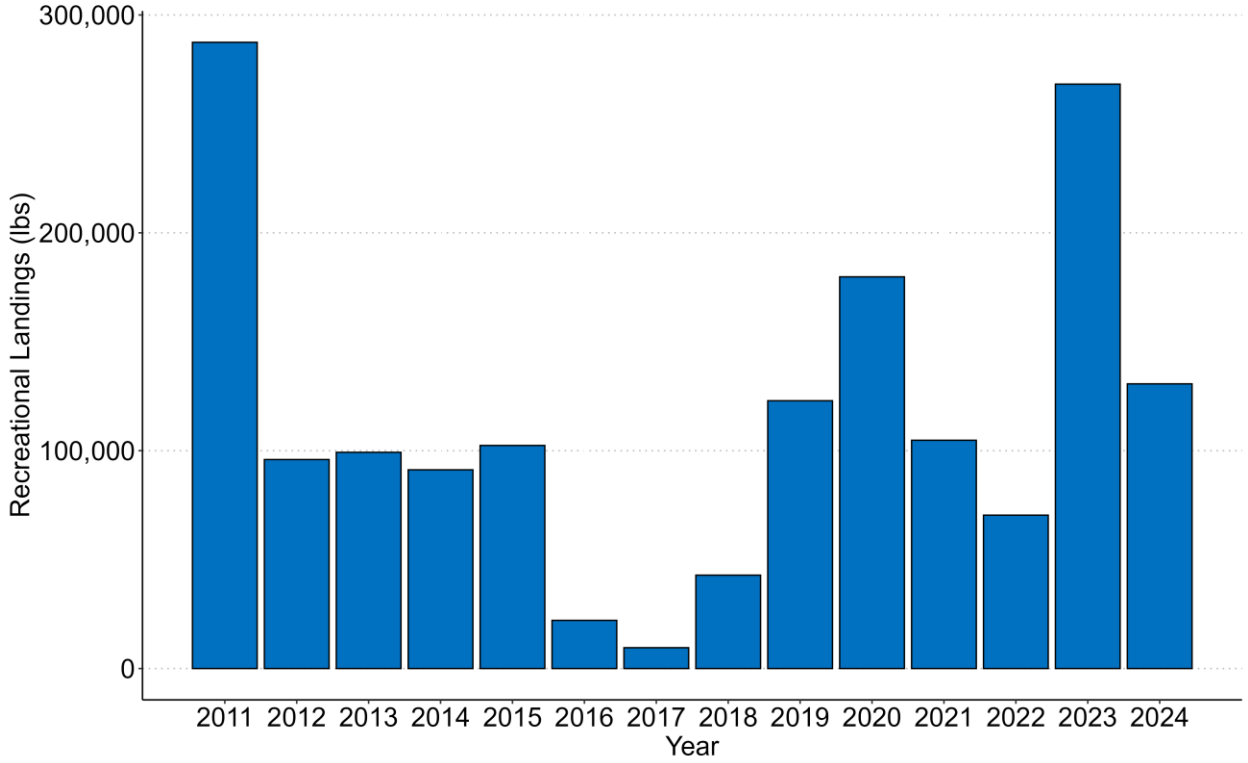


Figure 2. North Carolina recreational landings (pounds), 2011–2024. (Source: Marine Recreational Information Program)

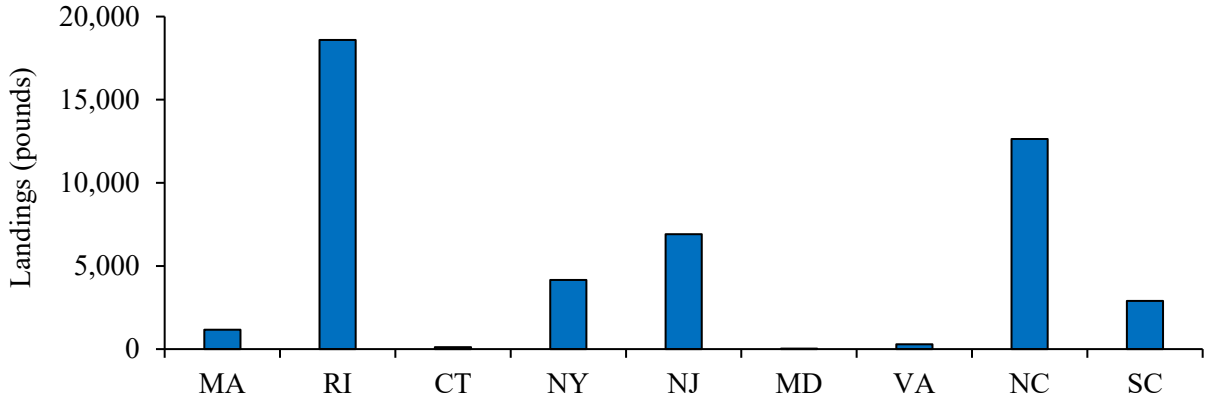


Figure 3. Average Atlantic bonito landings, MA–SC (pounds), 2011–2024. States not shown on graph did not have commercial landings. (Source: Atlantic Coastal Cooperative Statistics Program and North Carolina Trip Ticket Program)

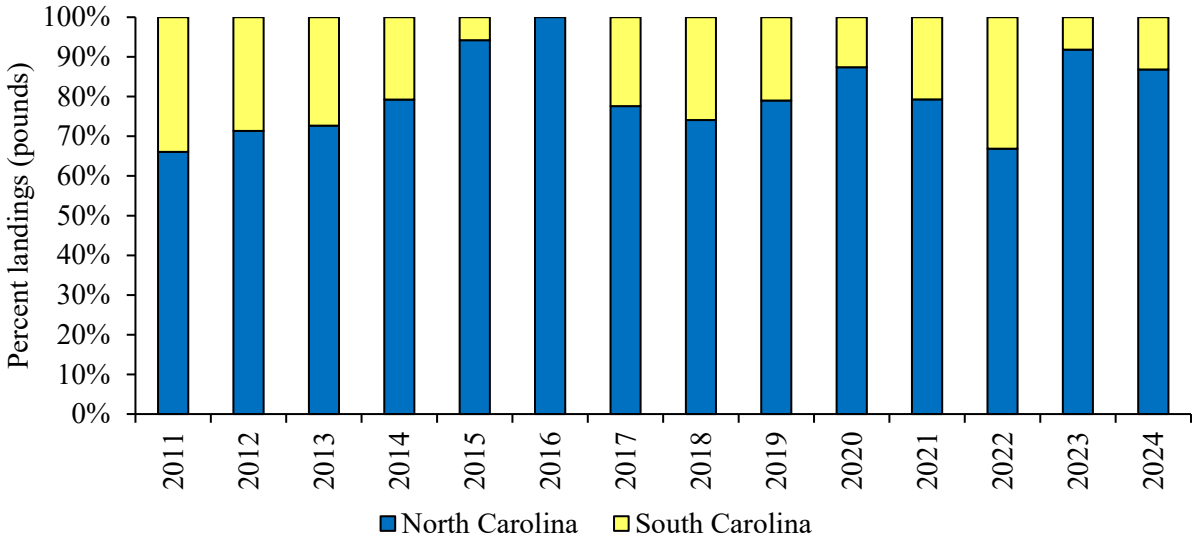


Figure 4. South Atlantic commercial landings (percent of total pounds) by state, 2011-2024. Florida and Georgia reported no landings during this time frame. (Source: Atlantic Coastal Cooperative Statistics Program)

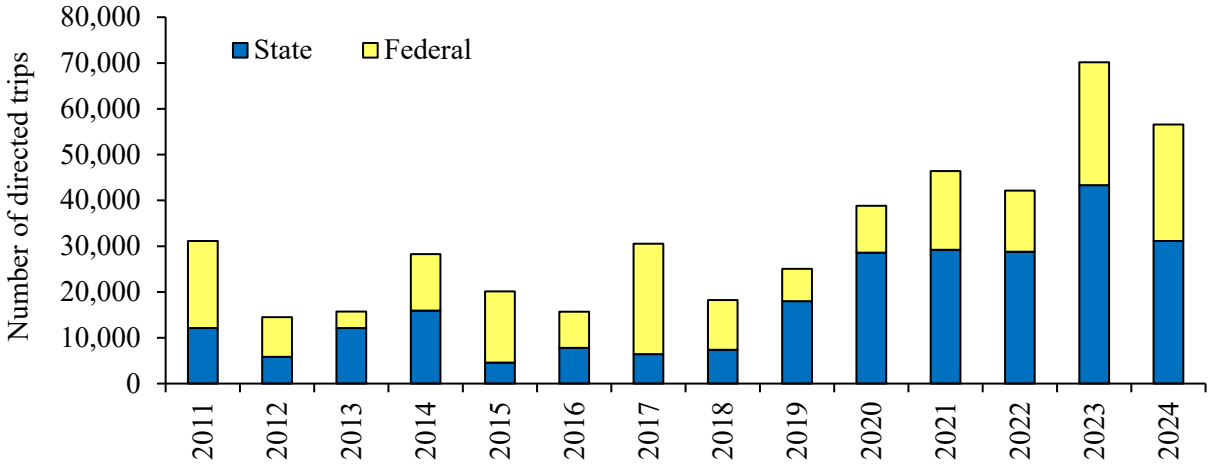


Figure 5. Directed recreational trips for Atlantic bonito in North Carolina in state (0-3 miles) and federal (>3 miles) waters, 2011-2024. (Source: Marine Recreational Information Program)

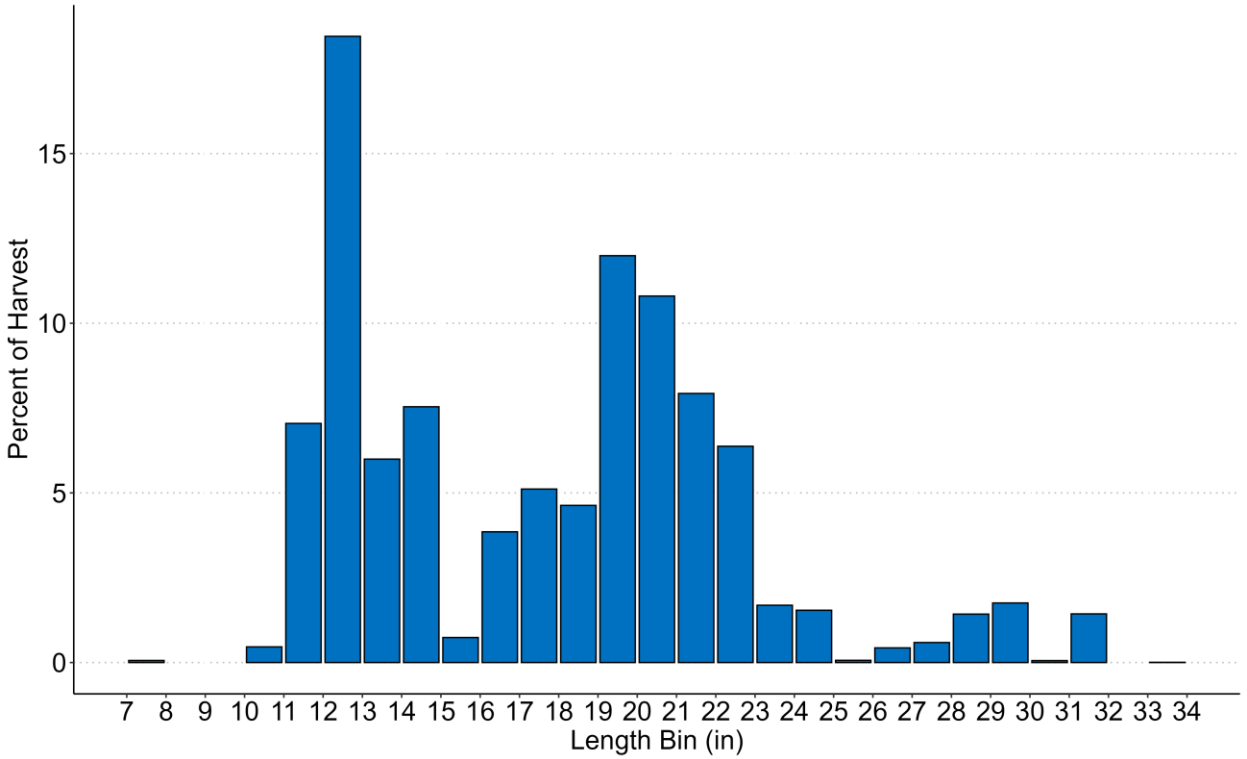


Figure 6. Percent of recreational Atlantic bonito harvest by length frequency (fork length, inches), 2011–2024. (Source: Marine Recreational Information Program)