NORTH CAROLINA
MARINE FISHERIES COMMISSION
RULES
APRIL 1, 2020

SUPPLEMENT – JUNE 1, 2023

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NORTH CAROLINA ADMINISTRATIVE CODE
TITLE 15A – ENVIRONMENTAL QUALITY
CHAPTER 03 – MARINE FISHERIES

THE FOLLOWING RULES ARE READOPTED, AMENDED, OR REPEALED EFFECTIVE MARCH 17, 2021; MAY 1, 2021; APRIL 1, 2022; JUNE 1, 2022; JULY 1, 2022; AUGUST 23, 2022; SEPTEMBER 1, 2022; OR MARCH 15, 2023.

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NORTH CAROLINA ADMINISTRATIVE CODE
TITLE 15A – ENVIRONMENTAL QUALITY
CHAPTER 18 – ENVIRONMENTAL HEALTH

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NORTH CAROLINA ADMINISTRATIVE CODE
TITLE 15A – ENVIRONMENTAL QUALITY
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.
  (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.
  (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;
    (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 with public health significance;
    (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; or
    (v) where the Division of Marine Fisheries 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) "Depuration" means mechanical purification or the removal of adulteration from live oysters, clams, or mussels by any artificially controlled means.

(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) "Shellfish marketing from leases and franchises" means the harvest of oysters, clams, scallops, or mussels from privately held shellfish bottoms and lawful sale of those shellfish to the public at large or to a licensed shellfish dealer.

(j) "Shellfish planting effort on leases and franchises" means the process of obtaining authorized cultch materials, seed shellfish, and shellfish stocks from polluted waters and the placement of those materials on privately held shellfish bottoms for increased shellfish production.

(k) "Shellfish production on leases and franchises" means:
(i) the culture of oysters, clams, scallops, or mussels on shellfish leases and franchises from a sublegal harvest size to a marketable size.
(ii) the transplanting (relay) of oysters, clams, scallops, or mussels from areas closed due to pollution to shellfish leases and franchises in open waters and the natural cleansing of those shellfish.

(l) "Swipe net operations" means fishing a seine towed by one vessel.

(m) "Transport" means to ship, carry, or cause to be carried or moved by public or private carrier by land, sea, or air.

(n) "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, as well as forage species utilized in the food chain. Fish habitats as used in this definition, are vital for portions of the

entire life cycle, including the early growth and development of fish species. Fish habitats in all Coastal Fishing Waters, as determined through marine and estuarine survey sampling, include:

(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 (six feet or less), average light availability (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, or 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, 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, lease, or assignment.

(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 to take or deal in marine fisheries resources.

(h) "Logbook" means paper forms provided by the Division and electronic data files generated from software 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 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, Washington, Morehead City, Roanoke Island, and Elizabeth City, 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) "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) "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) "Transaction" means an act of doing business such that fish are sold, offered for sale, exchanged, bartered, distributed, or landed.

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

History Note: *Authority G.S. 113-134; 113-174; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. March 1, 1995; March 1, 1994; October 1, 1993; July 1, 1993;
Recodified from 15A NCAC 03I .0001 Eff. December 17, 1996;
Amended Eff. April 1, 1999; August 1, 1998; April 1, 1997;

Temporary Amendment Eff. May 1, 2000; August 1, 1999; July 1, 1999;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. August 1, 2000;
Amended Eff. May 1, 2015; April 1, 2014; April 1, 2011; April 1, 2009; October 1, 2008; December 1, 2007; December 1, 2006; September 1, 2005; April 1, 2003; April 1, 2001;
Readopted Eff. June 1, 2022.

15A NCAC 03I .0104 INTRODUCE, TRANSFER, OR HOLD IMPORTED MARINE AND ESTUARINE ORGANISMS

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

(1) place into the Coastal Fishing Waters of the State live marine or estuarine organisms non-native to the State. For the purpose of this Rule, this action is an introduction.

(2) place into the coastal fishing waters of the State live marine or estuarine organisms that are native but that originated outside the State's boundaries. For the purpose of this Rule, this action is a transfer.

(3) hold or maintain any live marine or estuarine organisms, including non-native species that may thrive if introduced into Coastal Fishing Waters, imported into the State in a quarantine or isolation system for live bait or use in an aquaculture operation as defined in Rule .0101 of this Section.

(4) sell for bait any live marine or estuarine organisms, including non-native species that may thrive if introduced into Coastal Fishing Waters, imported into the State.

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

(1) pathologist that a sample of 60 organisms from proposed shipments are disease free or a certification from a governmental veterinary service that the organisms to be shipped were produced in an area or facility free of diseases posing a risk to North Carolina's marine or estuarine resources, or their environment, as determined by the Fisheries Director; and

(2) biologist or veterinarian that macroscopic and microscopic examination indicates the shipment contains only those species, sizes, and quantities identified on the permit application.

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

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

History Note: *Authority G.S. 113-134; 113-170; 113-182; 143B-289.52; S.L. 2017-190; S.L. 2018-114;*
Eff. January 1, 1991;
Amended Eff. November 1, 1991;
Recodified from 15A NCAC 3I .0004 Eff. December 17, 1996;
Amended Eff. April 1, 2009;
Readopted Eff. March 15, 2023.

15A NCAC 03I .0105 LEAVING DEVICES UNATTENDED

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

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

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

(d) For the purpose of this Rule, a timely and sufficient showing of hardship in a commercial fishing operation shall be a statement in writing from the owner of the pot or the owner's immediate family, as defined in G.S. 113-168, submitted to the Fisheries Director that a mechanical breakdown of the pot owner's vessel currently registered with the Division of Marine Fisheries pursuant to G.S. 113-168.6, or the death, illness, or incapacity of the owner of the pot or the owner's immediate family prevented or will prevent employing such pots in commercial fishing operations for more than five consecutive days. Statements and supporting documentation shall be mailed to the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557. Mailing a statement does not automatically exempt a fisherman from the requirements of this Rule. The statement shall specify the number and specific location of the pots, the date by which the pots will be employed in commercial fishing operations or removed from Coastal Fishing Waters, and:

(1) in the case of a mechanical breakdown, the Commercial Fishing Vessel Registration number, owner's N.C. motor boat registration number of the disabled vessel, date disabled, and description of the arrangements being made to repair the vessel or a copy of the work order showing the name, address, and phone number of the repair facility; or

(2) in the case of the death, illness, or incapacity of the owner of the pot or the owner's immediate family, the name of the owner 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.

(e) It shall be unlawful to fail to employ in commercial fishing operations or remove from Coastal Fishing Waters all pots for which a hardship request is granted under this Rule within 14 days of the expiration of the hardship.

History Note: *Authority G.S. 113-134; 113-136; 113-137; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. March 1, 1996;
Recodified from 15A NCAC 03I .0005 Eff. December 17, 1996;
Amended Eff. April 1, 1997;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. September 1, 2005; August 1, 2000;
Readopted Eff. March 15, 2023.

15A NCAC 03I .0108 OCEAN FISHING PIERS

(a) It shall be unlawful to fish with nets of any kind or from boats within the zone adjacent to any ocean fishing pier meeting the requirements of G.S. 113-185(a), if such zone is marked by one of the following methods or a combination of methods:

(1) yellow range poles at least three inches in diameter and extending not less than six feet above the surface of the ground, and that are parallel to the pier and identified by signs with the name of the pier printed in letters at least three inches high; or

(2) buoys that are yellow in color and not less than nine inches in diameter and extend no less than three feet above the surface of the water.

(b) It shall be unlawful to define a zone that extends more than 750 feet from the pier. When a marking system defines a smaller area than authorized, the limitations on fishing activities shall apply within the marked zone. When the marking system does not include buoys placed seaward of the pier's offshore end, the zone protected under G.S. 113-185 shall be limited to the areas parallel to the sides of the pier and shall include no area seaward of the offshore end of the pier.

(c) Owners of qualifying ocean piers shall be responsible for complying with all applicable local, State, and federal regulations for marking systems.

History Note: *Authority G.S. 113-134; 113-181; 113-182; 113-185; 143B-289.52;*
Eff. January 1, 1991;
Recodified from 15A NCAC 3I .0008 Eff. December 17, 1996;
Readopted Eff. April 1, 2022.

15A NCAC 03I .0109 RESEARCH SANCTUARIES

(a) The Fisheries Director may, by proclamation, prohibit or restrict the taking of fish and the use of any equipment in and around any research sanctuary. Any closure or restriction shall be for no more than one year, subject to renewal at the discretion of the Fisheries Director.

(b) It shall be unlawful to engage in any fishing activity, use any equipment, or conduct any other operation that has been prohibited by proclamation issued under this authority.

History Note: *Authority G.S. 113-134; 113-181; 113-182; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Recodified from 15A NCAC 3I .0009 Eff. December 17, 1996;

Readopted Eff. August 23, 2022.

15A NCAC 03I .0113 BIOLOGICAL SAMPLING

It shall be unlawful for any licensee under Chapter 113, Subchapter IV, of the General Statutes to refuse to allow the Fisheries Director or the Fisheries Director's agents to obtain biological data, harvest information, or other statistical data necessary or useful to the conservation and management of marine and estuarine resources from fish in the licensee's possession. Such data shall include, but is not limited to, species identification, length, weight, age, sex, number, area of catch, harvest method, and quantity of catch.

History Note: *Authority G.S. 113-134; 113-170.3; 113-174.1; 113-182; 143B-289.52;*
Eff. October 1, 1992;
Recodified from 15A NCAC 3I .0013 Eff. December 17, 1996;
Readopted Eff. March 15, 2023.

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 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.

(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.

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

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

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

(c) It shall be unlawful to transport fish without having ready at hand for inspection a bill of consignment, bill of lading, or other shipping documentation provided by the shipping dealer showing the following items:

(1) name of the consignee;
(2) name of the shipper;
(3) date of the shipment;
(4) name of fish being shipped; and
(5) quantity of each fish being shipped.

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

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

(e) It shall be unlawful to offer for sale fish purchased from a licensed fish dealer without having ready at hand for inspection by Marine Fisheries inspectors or other agents of the Fisheries Director written documentation of purchase showing the following items:

(1) name of the licensed fish dealer;
(2) name of the purchaser;
(3) date of the purchase;
(4) name of fish purchased; and
(5) quantity of each fish purchased.

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

History Note: *Authority G.S. 113-134; 113-168.2; 113-168.3; 113-169.3; 113-170; 113-170.3; 113-170.4; 113-182; 143B-289.52; Eff. March 1, 1994;*
Recodified from 15A NCAC 3I .0014 Eff. December 17, 1996;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. June 1, 2013; August 1, 2000;
Readopted Eff. March 15, 2023.

15A NCAC 03I .0115 REPLACEMENT COSTS OF MARINE AND ESTUARINE RESOURCES - FISH

(a) In accordance with G.S. 113-267, this Rule shall apply to replacement costs of fish that have been taken, injured, removed, harmfully altered, damaged, or destroyed. Fish, as used throughout this Rule, is defined in G.S. 113-129(7).

(b) The relative value of fish species shall be considered only as they may bear on the necessity or desirability of actual replacement.

(c) Determining replacement costs: the replacement costs of species of fishes that have been taken, injured, removed, harmfully altered, damaged, or destroyed shall be determined as set forth in this Paragraph. The weight of each undersized fish shall be adjusted to the average weight of a fish on the minimum legal size established by the Marine Fisheries Commission for that species in a rule of the Marine Fisheries Commission or a proclamation issued pursuant to a rule of the Marine Fisheries Commission. The replacement cost shall be calculated based on the greater of either:

(1) the cost of propagating and rearing the species in a hatchery and the cost of transporting them to areas of suitable habitat; or
(2) the average annual ex-vessel value of fish species per pound.

(d) The cost of propagating, rearing, and transporting the fish and the average annual ex-vessel value of fish species per pound shall be taken from the Division of Marine Fisheries annual statistical report for the calendar year next preceding the year in which the offense was committed. When the cost of propagating, rearing, or transporting a particular species is not available, replacement costs shall be calculated based upon the average annual ex-vessel value of the species. When neither the cost of propagating, rearing, or transporting a particular species, nor the average annual ex-vessel value of the species is available, replacement costs shall be determined according to the following factors:

(1) whether the species is classified as endangered or threatened;
(2) the relative frequency of occurrence of the species in the State;
(3) the extent of existing habitat suitable for the species within the State;
(4) the dependency of the species on unique habitat requirements;
(5) the cost of improving and maintaining suitable habitat for the species;
(6) the cost of capturing the species in areas of adequate populations and transplanting them to areas of suitable habitat with low populations;
(7) the availability of the species and the cost of acquisition for restocking purposes;
(8) the cost of those species that when released, have a probability of survival in the wild; and
(9) the ratio between the natural life expectancy of the species and the period of its probable survival when, having been reared in a hatchery, it is released to the wild.

(e) Replacement costs shall be assessed for the following fish:

(1) Alewife (River Herring);
(2) Amberjacks;
(3) Anglerfish (Goosefish);
(4) Bluefish;
(5) Bonito;
(6) Butterfish;
(7) Carp;
(8) Catfishes;
(9) Cobia;
(10) Croaker, Atlantic;
(11) Cutlassfish, Atlantic;
(12) Dolphinfish;
(13) Drum, Black;
(14) Drum, Red (Channel Bass);
(15) Eels;
(16) Flounders;
(17) Flounders, Fluke;
(18) Garfish;
(19) Gizzard Shad;
(20) Groupers;
(21) Grunts;
(22) Hakes;
(23) Harvestfish;
(24) Herring, Thread;
(25) Hickory Shad;
(26) Hogfish;
(27) Jacks;
(28) Kingfishes (Sea Mullet);
(29) Mackerel, Atlantic;
(30) Mackerel, King;
(31) Mackerel, Spanish;
(32) Menhaden, Atlantic;
(33) Mullets;
(34) Perch, White;
(35) Perch, Yellow;
(36) Pigfish;
(37) Pompano;
(38) Porgies;
(39) Scup;
(40) Sea Basses;
(41) Seatrout, Spotted;
(42) Shad (American);
(43) Sharks;
(44) Sharks, Dogfish;
(45) Sheepshead;
(46) Skippers;
(47) Snappers;
(48) Spadefish, Atlantic;
(49) Spot;
(50) Striped Bass;
(51) Swellfishes (Puffers);
(52) Swordfish;
(53) Tilefish;
(54) Triggerfish;
(55) Tuna;
(56) Wahoo;

(57) Weakfish (Grey Trout);
(58) Whiting;
(59) Wreckfish;
(60) Unclassified Fish;
(61) Brown Shrimp;
(62) Pink Shrimp;
(63) Rock Shrimp;
(64) White Shrimp;
(65) Unclassified Shrimp;
(66) Clam, Hard;
(67) Conchs;
(68) Crabs, Blue, Hard;
(69) Crabs, Blue, Soft;
(70) Octopus;
(71) Oyster;
(72) Scallop, Bay;
(73) Scallop, Calico;
(74) Scallop, Sea;
(75) Squid; and
(76) Unclassified Shellfish.

(f) Cost of investigations:

(1) factors to be considered: upon any investigation required as provided by G.S. 143-215.3(a)(7) or by court order for the purpose of determining the cost of replacement of marine and estuarine resources that have been killed, taken, injured, removed, harmfully altered, damaged, or destroyed, the factors to be considered in determining the cost of the investigation shall be as follows:

(A) the time expended by the employee or employees making the investigation, including travel time between the place of usual employment and the site of the investigation, and the time required in formulating and rendering the report;

(B) the cost of service to the state of each employee concerned, including annual salary, hospitalization insurance, and the State's contribution to social security taxes and to the applicable retirement system;

(C) subsistence of the investigating personnel, including meals, gratuities, and lodging away from home, when required;

(D) the cost of all necessary transportation;

(E) the use or rental of boats and motors, when required;

(F) the cost of cleaning or repairing any uniform or clothing that may be damaged, soiled, or contaminated by reason of completing the investigation;

(G) the cost of necessary telephonic communications; and

(H) any other expense directly related to and necessitated by the investigation.

(2) computation of costs: in assessing the cost of time expended in completing the investigation, the time expended by each person required to take part in the investigation shall be recorded in hours, the value of which shall be computed according to the ratio between the annual cost of service of the employee and his or her total annual working hours (2087 hours reduced by holidays, annual leave entitlement, and earned sick leave). Other costs shall be assessed as follows:

(A) subsistence: the per diem amount for meals, gratuities, and lodging away from home, not to exceed the then current maximum per diem for state employees;

(B) transportation: total mileage by motor vehicle multiplied by:

(i) the then current rate per mile for travel by state-owned vehicle; or

(ii) the then current rate per mile for travel by privately-owned vehicle, as applicable;

(C) boat and motor: ten dollars ($10.00) per hour;

(D) uniform and clothing cleaning and repair: actual cost;

(E) telephonic communications: actual cost; and

(F) other expenses: actual cost.

History Note: *Authority G.S. 113-134; 113-182; 113-267; 143B-289.52;*
Eff. March 1, 1995;
Recodified from 15A NCAC 3I .0015 Eff. December 17, 1996;

Readopted Eff. April 1, 2022.

15A NCAC 03I .0118 DISPOSAL OF EVIDENCE

It shall be unlawful for any person to dispose of fish, parts of fish, fishing equipment or gear, or other matter preparatory to, during, or subsequent to the taking of fish after any communication or signal from an inspector, or after the approach of an inspector or an enforcement vessel.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. March 1, 1996;
Recodified from 15A NCAC 3I .0018 Eff. December 17, 1996;
Readopted Eff. March 15, 2023.

15A NCAC 03I .0122 USER CONFLICT RESOLUTION

(a) To address user conflicts, the Fisheries Director may, by proclamation, impose any of the following restrictions:
- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season; and
- (5) specify quantity.

This authority may be used based on the Fisheries Director's own findings or on the basis of a request made in accordance with Paragraph (b) of this Rule. The Fisheries Director shall hold a public meeting in the area of the user conflict prior to issuance of a proclamation based on his or her own findings.

(b) Request for user conflict resolution:
- (1) any person desiring user conflict resolution may make such request in writing addressed to the Director of the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557. A request shall contain the following information:
  - (A) a map of the affected area including an inset vicinity map showing the location of the area with detail sufficient to permit on-site identification and location;
  - (B) identification of the user conflict causing a need for user conflict resolution;
  - (C) recommended solution for resolving user conflict; and
  - (D) name and address of the person requesting user conflict resolution.
- (2) within 90 days of the receipt of the information required in Subparagraph (b)(1) of this Paragraph, the Fisheries Director shall review the information and determine if user conflict resolution is necessary. If user conflict resolution is not necessary, the Fisheries Director shall deny the request. If user conflict resolution is necessary, the Fisheries Director or his or her designee shall hold a public meeting in the area of the user conflict. The requestor shall present his or her request at the public meeting.
- (3) following the public meeting as described in Subparagraph (b)(2) of this Paragraph, the Fisheries Director shall refer the users in the conflict for mediation or deny the request. If the user conflict cannot be resolved through mediation, the Fisheries Director shall submit for approval a proclamation to the Marine Fisheries Commission that addresses the conflict.
- (4) proclamations issued under this Rule shall suspend appropriate rules or portions of rules under the authority of the Marine Fisheries Commission as specified in the proclamation. The provisions of Rule .0102 of this Section terminating suspension of a rule pending the next Marine Fisheries Commission meeting and requiring review by the Marine Fisheries Commission at the next meeting shall not apply to proclamations issued under this Rule.

History Note: *Authority G.S. 113-134; 113-181; 113-182; 113-221.1; 143B-289.52;*
Eff. May 1, 2015;
Readopted Eff. April 1, 2022.

SUBCHAPTER 03J – NETS, POTS, DREDGES, AND OTHER FISHING DEVICES

SECTION .0100 – NET RULES, GENERAL

15A NCAC 03J .0101 FIXED OR STATIONARY NETS

It shall be unlawful to use or set fixed or stationary nets for any of the following:
- (1) in the channel of the Intracoastal Waterway;

(2) to block more than two-thirds of a natural or manmade waterway, sound, river, bay, creek, inlet, or other body of water under the authority of the Marine Fisheries Commission;
(3) in the middle third of a navigation channel marked by State or federal agencies; or
(4) in a location where it may interfere with navigation.

History Note: *Authority G.S. 113-134; 113-181; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Readopted Eff. March 15, 2023.

15A NCAC 03J .0103 GILL NETS, SEINES, IDENTIFICATION, RESTRICTIONS

(a) It shall be unlawful to use gill nets:
(1) with a mesh length less than two and one-half inches; and
(2) in Internal Waters from April 15 through December 15, with a mesh length five inches or greater and less than five and one-half inches.

(b) The Fisheries Director may, by proclamation, limit or prohibit the use of gill nets or seines in Coastal Fishing Waters, or any portion thereof, or impose any of the following restrictions on gill net or seine fishing operations:
(1) specify time;
(2) specify area;
(3) specify means and methods, including:
(A) gill net mesh length, but the maximum length specified shall not exceed six and one-half inches in Internal Waters; and
(B) net number and length, but for gill nets with a mesh length four inches or greater, the maximum length specified shall not exceed 2,000 yards per vessel in Internal Waters regardless of the number of individuals involved; and
(4) specify season.

(c) It shall be unlawful to use fixed or stationary gill nets in the Atlantic Ocean, drift gill nets in the Atlantic Ocean for recreational purposes, or any gill nets in Internal Waters unless nets are marked by attaching to them at each end two separate yellow buoys that shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. Gill nets that are not connected together at the top line are considered as individual nets, requiring two buoys at each end of each individual net. Gill nets connected together at the top line are considered as a continuous net requiring two buoys at each end of the continuous net. Any other marking buoys on gill nets used for recreational purposes shall be yellow, except that one additional buoy, any shade of hot pink in color, constructed as specified in this Paragraph, shall be added at each end of each individual net. Any other marking buoys on gill nets used in commercial fishing operations shall be yellow, except that one additional identification buoy of any color or any combination of colors, except any shade of hot pink, may be used at either or both ends. The gear owner's last name and initials shall be identified on a buoy on each end by using engraved buoys or by attaching engraved metal or plastic tags to the buoys. If a vessel is used, the identification shall also include one of the following:
(1) gear owner's current motor boat registration number; or
(2) gear owner's U.S. vessel documentation name.

(d) It shall be unlawful to use gill nets:
(1) within 200 yards of any flounder or other finfish pound net set with lead and either pound or heart in use, except from August 15 through December 31 in all Coastal Fishing Waters of the Albemarle Sound, including its tributaries to the boundaries between Coastal and Joint Fishing Waters, west of a line beginning at a point 36° 04.5184' N – 75° 47.9095' W on Powell Point; running southerly to a point 35° 57.2681' N – 75° 48.3999' W on Caroon Point, it shall be unlawful to use gill nets within 500 yards of any pound net set with lead and either pound or heart in use; and
(2) from March 1 through October 31 in the Intracoastal Waterway within 150 yards of any railroad or highway bridge.

(e) It shall be unlawful to use gill nets within 100 feet either side of the center line of the Intracoastal Waterway Channel south of the entrance to the Alligator-Pungo River Canal near Beacon "54" in Alligator River to the South Carolina line, unless such net is used in accordance with the following conditions:
(1) no more than two gill nets per vessel may be used at any one time;
(2) any net used must be attended by the fisherman from a vessel who shall at no time be more than 100 yards from either net; and
(3) any individual setting such nets shall remove them, when necessary, in sufficient time to permit unrestricted vessel navigation.

(f) It shall be unlawful to use runaround, drift, or other non-stationary gill nets, except as provided in Paragraph (e) of this Rule:
(1) to block more than two-thirds of any natural or manmade waterway, sound, bay, creek, inlet, or any other body of water; or

(2) in a location where it will interfere with navigation.

(g) It shall be unlawful to use unattended gill nets with a mesh length less than five inches in a commercial fishing operation in the gill net attended areas designated in 15A NCAC 03R .0112(a).

(h) It shall be unlawful to use unattended gill nets with a mesh length less than five inches in a commercial fishing operation from May 1 through November 30 in the Internal Waters and Joint Fishing Waters of the state designated in 15A NCAC 03R .0112(b).

(i) It shall be unlawful for any portion of a gill net with a mesh length five inches or greater to be within 10 feet of any point on the shoreline while set or deployed, unless the net is attended from June through October in Internal Waters.

(j) For the purpose of this Rule and 15A NCAC 03R .0112, "shoreline" shall mean the mean high water line or marsh line, whichever is more seaward.

History Note: *Authority G.S. 113-134; 113-173; 113-182; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. August 1, 1998; March 1, 1996; March 1, 1994; July 1, 1993; September 1, 1991;
Temporary Amendment Eff. October 2, 1999; July 1, 1999; October 22, 1998;
Amended Eff. April 1, 2001;
Temporary Amendment Eff. May 1, 2001;
Amended Eff. April 1, 2016; April 1, 2009; December 1, 2007; September 1, 2005; August 1, 2004; August 1, 2002;
Readopted Eff. August 23, 2022.

15A NCAC 03J .0104 TRAWL NETS

(a) It shall be unlawful to possess aboard a vessel while using a trawl net in Internal Waters more than 500 pounds of finfish from December 1 through March 1, and 1,000 pounds of finfish from March 2 through November 30.

(b) It shall be unlawful to use trawl nets:

(1) in Internal Waters from 9:00 p.m. on Friday through 5:00 p.m. on Sunday, except:
  (A) from December 1 through March 1 from one hour after sunset on Friday to one hour before sunrise on Monday in the areas listed in Subparagraph (b)(5) of this Paragraph; or
  (B) for a holder of a Permit for Weekend Trawling for Live Shrimp in accordance with 15A NCAC 03O .0503;
(2) for the taking of oysters;
(3) in Albemarle Sound, Currituck Sound, and their tributaries, west of a line beginning on the south shore of Long Point at a point 36° 02.4910' N – 75° 44.2140' W; running southerly to the north shore on Roanoke Island to a point 35° 56.3302' N – 75° 43.1409' W; running northwesterly to Caroon Point to a point 35° 57.2255' N – 75° 48.3324' W;
(4) in the areas described in 15A NCAC 03R .0106, except that the Fisheries Director may, by proclamation, open the area designated in 15A NCAC 03R .0106(1) to peeler crab trawling;
(5) from December 1 through March 1 from one hour after sunset to one hour before sunrise in the following areas:
  (A) in Pungo River, north of a line beginning on Currituck Point at a point 35° 24.5833' N – 76° 32.3166' W, running southwesterly to Wades Point to a point 35° 23.3062' N – 76° 34.5135' W;
  (B) in Pamlico River, west of a line beginning on Wades Point at a point 35° 23.3062' N – 76° 34.5135' W, running southwesterly to Fulford Point to a point 35° 19.8667' N – 76° 35.9333' W;
  (C) in Bay River, west of a line beginning on Bay Point at a point 35° 11.0858' N – 76° 31.6155' W, running southerly to Maw Point to a point 35° 09.0214' N – 76° 32.2593' W;
  (D) in Neuse River, west of a line beginning on the Minnesott side of the Neuse River Ferry at a point 34° 57.9116' N – 76° 48.2240' W, running southerly to the Cherry Branch side of the Neuse River Ferry to a point 34° 56.3658' N – 76° 48.7110' W;
  (E) in New River, all waters upstream of the N.C. Highway 172 Bridge when opened by proclamation; and
(6) in designated pot areas opened to the use of pots by Rule .0301(a)(2) of this Subchapter and described in 15A NCAC 03R .0107(a)(5), (a)(6), (a)(7), (a)(8), and (a)(9) within an area bound by the shoreline to the depth of six feet.

(c) Mesh sizes for shrimp and crab trawl nets shall meet the requirements of 15A NCAC 03L .0103 and .0202.

(d) The Fisheries Director may, with prior consent of the Marine Fisheries Commission, by proclamation, require bycatch reduction devices or cod end (tailbag) modifications in trawl nets to reduce the catch of finfish that do not meet size limits or are unmarketable as individual foodfish by reason of size.

(e) It shall be unlawful to use shrimp trawl nets for recreational purposes unless the trawl net is marked by attaching to the cod end (tailbag) a floating buoy, any shade of hot pink in color. Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The gear owner's last name and initials shall be identified on the attached buoy by using an engraved buoy or by attaching engraved metal or plastic tags to the buoy. If a vessel is used, the identification shall also include one of the following:

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

(2) gear owner's U.S. vessel documentation name.

(f) It shall be unlawful to use shrimp trawl nets for the taking of blue crabs in Internal Waters, except that it shall be permissible to take or possess blue crabs incidental to shrimp trawling in accordance with the following limitations:

(1) for individuals using shrimp trawl nets authorized by a Recreational Commercial Gear License, 50 blue crabs per day, not to exceed 100 blue crabs if two or more Recreational Commercial Gear License holders are on board the same vessel; and

(2) for commercial operations, crabs may be taken incidental to lawful shrimp trawl net operations provided that the weight of the crabs shall not exceed the greater of:

(A) 50 percent of the total weight of the combined crab and shrimp catch; or

(B) 300 pounds.

(g) The Fisheries Director may, by proclamation, close any area to trawling for specific time periods consistent with the requirements of this Rule.

History Note: *Authority G.S. 113-134; 113-173; 113-182; 113-221.1; 143B-289.52;*
Eff. February 1, 1991;
Amended Eff. August 1, 1998; May 1, 1997; March 1, 1994; February 1, 1992;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. May 1, 2017; April 1, 2014; April 1, 2009; September 1, 2005; August 1, 2004; August 1, 2000;
Readopted Eff. August 23, 2022.

15A NCAC 03J .0105 PURSE SEINES

(a) It shall be unlawful to use purse seines except for the taking of menhaden, Atlantic thread herring, gizzard shad, or pinfish.

(b) It shall be unlawful to use a purse seine in accordance with the following:

(1) in the Atlantic Ocean as described in 15A NCAC 03R .0111.

(2) except as provided in Paragraph (c) of this Rule, between January 16 and May 14 in:

(A) internal waters; and

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

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

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

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

(A) Memorial Day;

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

(C) Labor Day.

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

(1) specify time;

(2) specify area;

(3) specify means and methods;

(4) specify record keeping requirements;

(5) specify season; and

(6) specify quantity.

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

(1) Pamlico Sound;

(2) Pamlico River east of a line from Wades Point to Intracoastal Waterway Marker No. 1 at the mouth of Goose Creek;

(3) Neuse River east of a line from Wilkinson Point to Cherry Point;

(4) Adams Creek;

(5) Core Sound and its tributaries;

(6) Back Sound, the Straits, and North River;

(7) Newport River;

(8) North River; and

(9) Bogue Sound.

(e) Menhaden, Atlantic thread herring, gizzard shad, or pinfish may be taken at any time with a purse seine from beyond one mile of shore in the Atlantic Ocean and transported to port except as specified by Session Law 2012-190 and Subparagraphs (b)(4) and (b)(5) of this Rule.

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

(1) within two hours of the spill, notify the Division of Marine Fisheries Communications Center of the spill by phone at 800-682-2632 or 252-726-7021; and

(2) report to the Fisheries Director of the North Carolina Division of Marine Fisheries in writing within 30 days of the completion of spill clean-up on the circumstances associated with each spill and costs of its clean-up.

History Note: *Authority G.S. 113-134; 113-182; 113-187; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. October 1, 2008;
Readopted Eff. March 15, 2023.

15A NCAC 03J .0106 CHANNEL NETS

(a) It shall be unlawful to use a channel net:

(1) until the Fisheries Director specifies by proclamation, time periods and areas for the use of channel nets and other fixed nets for shrimping;

(2) without yellow light reflective tape on the top portion of each staff or stake and on any buoys located at either end of the net;

(3) with any portion of the set including boats, anchors, cables, ropes, or nets within 50 feet of the center line of the Intracoastal Waterway Channel;

(4) in the middle third of any navigation channel marked by U.S. Army Corps of Engineers or U.S. Coast Guard; and

(5) unless attended by the fisherman who shall be no more than 50 yards from the net at all times.

(b) It shall be unlawful to use or possess aboard a vessel any channel net with a corkline exceeding 40 yards.

(c) It shall be unlawful to leave any channel net, channel net buoy, or channel net stakes in Coastal Fishing Waters from December 1 through March 1.

(d) It shall be unlawful to use floats or buoys of metallic material for marking a channel net set.

(e) From March 2 through November 30, cables used in a channel net operation shall, when not attached to the net, be connected together and any attached buoy shall be connected by non-metal line.

(f) It shall be unlawful to leave channel net buoys in Coastal Fishing Waters without yellow light reflective tape on each buoy and without the gear owner's last name and initials being legibly printed on each buoy. If a vessel is used, the identification shall also include one of the following:

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

(2) gear owner's U.S. vessel documentation name.

(g) It shall be unlawful to use any channel nets, anchors, lines, or buoys in such a manner as to constitute a hazard to navigation.

(h) It shall be unlawful to use channel nets for the taking of blue crabs in Internal Waters, except that it shall be permissible to take or possess blue crabs incidental to channel net operations in accordance with the following limitations:

(1) crabs may be taken incidental to lawful channel net operations provided that the weight of the crabs shall not exceed:

(A) 50 percent of the total weight of the combined crab and shrimp catch; or

(B) 300 pounds, whichever is greater.

(2) The Fisheries Director may, by proclamation, close any area to channel net use for specific time periods consistent with the requirements of this Paragraph.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. September 1, 2005;
Readopted Eff. August 23, 2022.

15A NCAC 03J .0109 LONG HAUL AND SWIPE NET REQUIREMENTS

It shall be unlawful to use a net in a long haul or swipe net fishing operation:

(1) without a floating buoy that shall be international orange, no less than five inches in diameter, and no less than 11 inches in length attached a minimum of every 100 yards along the cork line;

(2) without a flag that shall be square in shape, international orange in color, and at least 24 inches by 24 inches in size flying in the rigging so as to be visible when approaching the vessel from any direction; and

(3) in the Internal Coastal Waters south and west of a line beginning on the west shore of Pamlico Sound at Bluff Point at a point 35° 19.5333' N – 76° 09.3333' W; running southeasterly to Ocracoke Island to a point 35° 08.0000' N – 75° 55.0000' W; without escape panels as follows:

(a) for long haul operations, two panels four feet deep and six feet long installed with the entire panel within 10 feet of the staff on the end of the bunt net from which the fish are being bailed, with panels in the water while fish are harvested;
(b) for swipe net operations, two panels three feet deep and five feet long installed with the entire panel within 10 feet of the staff on the end of the bunt net from which the fish are being bailed, with panels in the water while fish are harvested;
(c) the upper edge of one panel installed within 12 to 24 inches of the float line and the lower edge of the other panel installed within 12 to 24 inches of the lead line; and
(d) panels constructed of unobstructed trawl rings with a minimum inside diameter of one and nine-sixteenth inches, with the rings fastened together at a maximum of four points per ring.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. January 1991;
Amended Eff. August 1, 2004; April 1, 1999;
Readopted Eff. March 15, 2023.

15A NCAC 03J .0110 SEINES

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

(1) gear owner's current motor boat registration number; or
(2) owner's U.S. vessel documentation name.

History Note: *Authority G.S. 113-134; 113-173; 113-182; 143B-289.52;*
Temporary Adoption Eff. July 1, 1999;
Eff. August 1, 2000;
Readopted Eff. March 15, 2023.

15A NCAC 03J .0111 FYKE OR HOOP NETS

(a) It shall be unlawful to use fyke or hoop nets in Coastal Fishing Waters without:
(1) the owner's identification being printed on a sign no less than six inches square, attached on an outside corner stake of each such net; or
(2) each net being marked by attaching a floating buoy to a single net and a buoy on each end of the line connecting multiple (two or more) nets, when stakes are not used. Buoys shall be of any color except any shade of yellow or any shade of hot pink, or any combination of colors that include any shade of yellow or any shade of hot pink. Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The gear owner's last name and initials shall be identified on the attached buoy by using engraved buoys or by attaching engraved metal or plastic tags to the buoy. If a vessel is used, the identification shall also include:
(A) gear owner's current motor boat registration number; or
(B) gear owner's U.S. vessel documentation name.
(b) It shall be unlawful to use a fyke or hoop net within 200 yards of any operational pound net set.
(c) It shall be unlawful to use a fyke or hoop net within 150 yards of any railroad or highway bridge.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Temporary Adoption Eff. August 1, 2000;
Amended Eff. April 1, 2003; April 1, 2001;
Readopted Eff. August 23, 2022.

SECTION .0200 – NET RULES, SPECIFIC AREAS

15A NCAC 03J .0202 ATLANTIC OCEAN

In the Atlantic Ocean:

(1) It shall be unlawful to use nets from June 15 through August 15 in the waters of Masonboro Inlet or in the ocean within 300 yards of the beach between Masonboro Inlet and a line running southeasterly through the water tank 34°

13.1500' N – 77° 47.3000' W on the northern end of Wrightsville Beach, a distance of 4400 yards parallel with the beach.

(2) It shall be unlawful to use trawls within one-half mile of the beach between the North Carolina/Virginia state line and Oregon Inlet.

(3) It shall be unlawful to use a trawl with a mesh length less than four inches in the main body, three inches in the extension, and one and three-fourths inches in the cod end or tailbag inshore of a line beginning on the western side of Beaufort Inlet Channel at a point 34° 41.3000' N – 76° 40.1333' W; running westerly parallel to and one-half miles from the shore off Salter Path to a point 34° 40.5333' N – 76° 53.7500' W.

(4) It shall be unlawful to use trawl nets, including flynets, southwest of the 9960-Y chain 40250 LORAN C line (running offshore in a southeasterly direction) from Cape Hatteras to the North Carolina/South Carolina state line except:
- (a) shrimp trawls as defined in 15A NCAC 03L .0103;
- (b) crab trawls as defined in 15A NCAC 03L .0202; or
- (c) flounder trawls as defined in 15A NCAC 03M .0503.

(5) It shall be unlawful to possess finfish (including pursuant to 15A NCAC 03M .0102) incidental to shrimp or crab trawl operations from December 1 through March 31 unless the weight of the combined catch of shrimp and crabs exceeds the weight of finfish, except an additional 300 pounds of kingfish (Menticirrhus, spp.) may be taken south of Bogue Inlet.

(6) It shall be unlawful to use unattended gill nets or block or stop nets in the Atlantic Ocean within 300 yards of the beach from Beaufort Inlet to the North Carolina/South Carolina state line from sunset Friday to sunrise Monday from Memorial Day through Labor Day.

(7) It shall be unlawful to use gill nets in the Atlantic Ocean with a mesh length greater than seven inches from April 15 through December 15.

(8) It shall be unlawful to use shrimp trawls in all waters west of a line beginning at the southeastern tip of Baldhead Island at a point 33° 50.4833' N – 77° 57.4667' W; running southerly in the Atlantic Ocean to a point 33° 46.2667' N – 77° 56.4000' W; from 9:00 p.m. through 5:00 a.m.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. March 1, 1996; September 1, 1991;
Temporary Amendment Eff. December 1, 1997;
Amended Eff. October 1, 2008; August 1, 2004; August 1, 1998;
Readopted Eff. August 23, 2022.

15A NCAC 03J .0208 NEW RIVER

(a) It shall be unlawful to use trawl nets except skimmer trawls upstream of the Highway 172 Bridge over New River.

(b) It shall be unlawful to use skimmer trawls upstream of the Highway 172 Bridge over New River from 9:00 p.m. through 5:00 a.m. from August 16 through November 30.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. August 1, 1998;
Amended Eff. May 1, 2015; August 1, 2004;
Readopted Eff. August 23, 2022.

SECTION .0300 - POTS, DREDGES, AND OTHER FISHING DEVICES

15A NCAC 03J .0301 POTS

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

(1) in Internal Waters from December 1 through May 31, except that:
- (A) in the Northern Region designated in 15A NCAC 03R .0118(1) all pots shall be removed from Internal Waters from January 1 through January 31. Fish pots upstream of the U.S. 17 Bridge across Chowan River and upstream of a line across the mouth of Roanoke, Cashie, Middle, and Eastmost Rivers to the Highway 258 Bridge are exempt from this removal requirement.
- (B) in the Southern Region designated in 15A NCAC 03R .0118(2) all pots shall be removed from Internal Waters from March 1 through March 15.

(2) in Internal Waters from June 1 through November 30 in the Northern Region designated in 15A NCAC 03R .0118(1):
- (A) in areas described in 15A NCAC 03R .0107(a).

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

(3) in Internal Waters from May 1 through November 30 in the Southern Region designated in 15A NCAC 03R .0118(2), the Fisheries Director may, by proclamation, specify time periods and areas for the use of pots.

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

(b) It shall be unlawful to use pots:

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

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

(c) It shall be unlawful to use pots in a commercial fishing operation unless each pot is marked by attaching a floating buoy of any color except any shade of yellow or any shade of hot pink, or any combination of colors that include any shade of yellow or any shade of hot pink. Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The gear owner's last name and initials shall be engraved on the attached buoy or identified by attaching engraved metal or plastic tags to the buoy. If a vessel is used, the identification shall also include one of the following:

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

(2) gear owner's U.S. vessel documentation name.

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

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

(f) It shall be unlawful to use pots to take eels with mesh lengths smaller than one-half inch by one-half inch.

(g) Except for unbaited pots or pots baited with a male crab, it shall be unlawful to use crab pots in Coastal Fishing Waters unless each pot contains no less than three unobstructed escape rings that are at least two and five-sixteenth inches inside diameter and:

(1) for pots with a divider:

(A) two escape rings shall be located on opposite panels of the upper chamber of the pot; and

(B) at least one escape ring shall be located within one full mesh of the corner and one full mesh of the bottom of the divider in the upper chamber of the pot.

(2) for pots without a divider:

(A) two escape rings shall be located on opposite panels of the pot; and

(B) at least one escape ring shall be located within one full mesh of the corner and one full mesh of the bottom of the pot.

For the purpose of this Rule, a "divider" shall mean a panel that separates the crab pot into upper and lower sections.

(h) The Fisheries Director may, by proclamation, impose on a commercial fishing operation and for recreational purposes any of the following restrictions for pots:

(1) specify time;

(2) specify area;

(3) specify means and methods;

(4) specify record keeping and reporting requirements;

(5) specify season, including a closed season for removal of all pots from Internal Waters;

(6) specify species; and

(7) specify quantity.

(i) It shall be unlawful to use more than 150 crab pots per vessel in Newport River.

(j) It shall be unlawful to remove crab pots from the water or remove crabs from crab pots between one hour after sunset and one hour before sunrise.

(k) It shall be unlawful to use pots to take crabs unless the line connecting the pot to the buoy is non-floating.

(l) It shall be unlawful to use pots with leads or leaders to take shrimp. For the purpose of this Rule, "leads" or "leaders" shall mean any fixed or stationary net or device used to direct fish into any gear used to capture fish. Any device with leads or leaders used to capture fish shall not be a pot.

History Note: *Authority G.S. 113-134; 113-173; 113-182; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. August 1, 1998; May 1, 1997; March 1, 1996; March 1, 1994; October 1, 1992; September 1, 1991;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. September 1, 2000;
Amended Eff. May 1, 2015; April 1, 2014; September 1, 2005; August 1, 2004; August 1, 2002;
Readopted Eff. March 15, 2023.

15A NCAC 03J .0302 RECREATIONAL USE OF POTS

(a) It shall be unlawful for a Recreational Commercial Gear License holder to use pots authorized by 15A NCAC 03O .0302 unless each pot is marked by attaching a floating buoy, any shade of hot pink in color. Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The gear owner's last name and initials shall be identified on the attached buoy using an engraved buoy or by attaching engraved metal or plastic tags to the buoy. If a vessel is used, the identification shall also include one of the following:

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

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

(b) It shall be unlawful for a person to use more than one crab pot attached to the shore along privately owned land or to a privately owned pier without possessing a valid Recreational Commercial Gear License.

History Note: *Authority G.S. 113-134; 113-173; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. April 1, 2011; August 1, 2000;
Readopted Eff. March 15, 2023.

15A NCAC 03J .0305 TROTLINES (MULTIPLE HOOK OR MULTIPLE BAIT)

(a) It shall be unlawful to use multiple hook or multiple bait trotlines for recreational purposes unless each multiple hook or multiple bait trotline is marked by attaching to them at each end a floating buoy, any shade of hot pink in color. Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The gear owner's last name and initials shall be engraved on the attached buoy or identified by attaching engraved metal or plastic tags to the buoy. If a vessel is used, the identification shall also include one of the following:

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

(2) gear owner's U.S. vessel documentation name.

(b) It shall be unlawful to use multiple hook or multiple bait trotlines in a commercial fishing operation unless each multiple hook or multiple bait trotline is marked by attaching to them at each end a floating buoy of any color except any shade of yellow or any shade of hot pink, or any combination of colors that include any shade of yellow or any shade of hot pink. Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The gear owner's last name and initials shall be engraved on the attached buoy or identified by attaching engraved metal or plastic tags to the buoy. If a vessel is used, the identification shall also include one of the following:

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

(2) gear owner's U.S. vessel documentation name.

History Note: *Authority G.S. 113-134; 113-173; 113-182; 143B-289.52;*
Temporary Adoption Eff. July 1, 1999;
Eff. August 1, 2000;
Readopted Eff. March 15, 2023.

SECTION .0400 – FISHING GEAR

15A NCAC 03J .0401 FISHING GEAR

(a) The Fisheries Director, in order to address issues involving user conflicts may, by proclamation, close the areas described in Paragraph (b) of this Rule to the use of specific fishing gear.

(b) It shall be unlawful to use fishing gear as specified by proclamation at the time and dates specified in the proclamation between the Friday before Easter through December 31 in the following areas when such areas have been closed by proclamation:

(1) all or part of the Atlantic Ocean, up to one-half mile from the beach;

(2) up to one-half mile in all directions of Oregon Inlet;

(3) up to one-half mile in all directions of Hatteras Inlet;

(4) up to one-half mile in all directions of Ocracoke Inlet;

(5) up to one-half mile of the Cape Lookout Rock Jetty;

(6) up to one-half mile in all directions of fishing piers open to the public;

(7) up to one-half mile in all directions of State Parks; and

(8) up to one-half mile of marinas as defined by the Coastal Resources Commission.

(c) The Fisheries Director shall specify in the proclamation the boundaries of the closure through the use of maps, legal descriptions, prominent landmarks, or other permanent type markers.
(d) The Fisheries Director shall hold a public meeting in the affected area before issuance of proclamations authorized by this Rule.

History Note: *Authority G.S. 113-133; 113-134; 113-182; 113-221.1; 143B-289.52;*
Eff. July 1, 1993;
Amended Eff. June 1, 1996; March 1, 1995; October 1, 1993;
Readopted Eff. April 1, 2022.

15A NCAC 03J .0402 FISHING GEAR RESTRICTIONS

(a) It shall be unlawful to use commercial fishing gear in the following areas during dates and times specified for the identified areas:
- (1) Atlantic Ocean - Dare County:
  - (A) Nags Head:
    - (i) seines and gill nets shall not be used from the North Town Limit of Nags Head at Eight Street southward to Gulf Street:
      - (I) from Wednesday through Saturday of the week of the Nags Head Surf Fishing Tournament held during October of each year the week prior to Columbus Day; and
      - (II) from November 1 through December 15; and
    - (ii) commercial fishing gear shall not be used within 750 feet of licensed fishing piers when open to the public;
  - (B) Oregon Inlet: seines and gill nets shall not be used from the Friday before Easter through December 31:
    - (i) within one-quarter mile of the beach from the National Park Service Ramp #4 (35° 48.2500' N – 75° 32.7000' W) on Bodie Island to the northern terminus of the Bonner Bridge (35° 46.5000' N – 75° 32.3666' W) on Hwy. 12 over Oregon Inlet; and
    - (ii) within the area known locally as "The Pond", a body of water generally located to the northeast of the northern terminus of the Bonner Bridge; and
  - (C) Cape Hatteras (Cape Point): seines and gill nets shall not be used within one-half mile of Cape Point from the Friday before Easter through December 31. The closed area is defined by a circle with a one-half mile radius having the center near Cape Point at a point 35° 12.9000' N – 75° 31.7166' W;
- (2) Atlantic Ocean - Onslow and Pender counties: commercial fishing gear shall not be used during the time specified for the following areas:
  - (A) Topsail Beach: from January 1 through December 31, that area around Jolly Roger Fishing Pier bordered on the offshore side by a line 750 feet from the end of the pier and on the northeast and southwest by a line beginning at a point on the beach one-quarter mile from the pier extending seaward to intersect the offshore boundary; and
  - (B) Surf City:
    - (i) from January 1 to June 30, that area around the Surf City Fishing Pier bordered on the offshore side by a line 750 feet from the end of the pier, on the southwest by a line beginning at a point on the beach one-quarter mile from the pier and on the northeast by a line beginning at a point on the beach 750 feet from the pier extending seaward to intersect the offshore boundaries; and
    - (ii) from July 1 to December 31, those areas around the pier bordered on the offshore side by a line 750 feet from the end of the pier, on the southwest by a line beginning at a point on the beach 750 feet from the pier and on the northeast by a line beginning at a point on the beach one-quarter mile from the pier extending seaward to intersect the offshore boundaries;
- (3) Atlantic Ocean - New Hanover County: Carolina Beach Inlet through Kure Beach: commercial fishing gear shall not be used during the times specified for the following areas:
  - (A) from the Friday before Easter to November 30, within the zones adjacent to the Carolina Beach and Kure Beach Fishing Piers bordered on the offshore side by a line 750 feet from the ends of the piers and on the north and south by a line beginning at a point on the beach one-quarter mile from the pier extending seaward to intersect the offshore boundary, except the southern boundary for Kure Beach Pier is a line beginning on the beach one mile south of the pier to the offshore boundary for the pier; and
  - (B) from May 1 to November 30, within 900 feet of the beach, from Carolina Beach Inlet to the southern end of Kure Beach with the following exceptions:
    - (i) from one-quarter mile north of Carolina Beach Fishing pier to Carolina Beach Inlet from October 1 to November 30:
      - (I) strike nets may be used within 900 feet of the beach; and

(II) attended nets may be used between 900 feet and one-quarter mile of the beach;

(ii) strike nets and attended gill nets may be used within 900 feet of the beach from October 1 to November 30 in other areas except those described in Part (a)(3)(A) and Subpart (a)(3)(B)(i) of this Subparagraph; and

(iii) it shall be unlawful to use commercial fishing gear within 900 feet of the beach from Carolina Beach Inlet to a point on the beach 33°55.0026' N – 77°56.6630' W near the former location of New Inlet during the October surf fishing tournament in Carolina Beach; and

(4) Pamlico River – Beaufort County: Goose Creek State Park: commercial fishing gear shall not be used from the Friday before Easter through December 31 for the following areas:

(A) within 150 feet of the shoreline within park boundaries; and

(B) within the marked channel from Dinah Landing to the mouth of Upper Goose Creek.

(b) It shall be unlawful to use gill nets or seines in the following areas during dates and times specified for the identified areas:

(1) Neuse River and South River, Carteret County: no more than 1,200 feet of gill nets having a stretched mesh of five inches or larger shall be used:

(A) within one-half mile of the shore from Winthrop Point at Adams Creek to Channel Marker "2" at the mouth of Turnagain Bay; and

(B) within South River;

(2) Cape Lookout, Carteret County:

(A) gill nets or seines shall not be used in the Atlantic Ocean within 300 feet of the Rock Jetty (at Cape Lookout between Power Squadron Spit and Cape Point); and

(B) seines shall not be used within one-half mile of the shore from Power Squadron Spit south to Cape Point and northward to Cape Lookout Lighthouse including the area inside the "hook" south of a line from the COLREGS Demarcation Line across Bardens Inlet to the eastern end of Shackleford Banks and then to the northern tip of Power Squadron Spit from 12:01 a.m. Saturdays until 12:01 a.m. Mondays from May 1 through November 30;

(3) State parks and recreation areas:

(A) gill nets or seines shall not be used in the Atlantic Ocean within one-quarter mile of the shore at Fort Macon State Park, Carteret County;

(B) gill nets or seines shall not be used in the Atlantic Ocean within one-quarter mile of the shore at Hammocks Beach State Park, Onslow County, from May 1 through October 1, except strike nets and attended gill nets may be used beginning August 15; and

(C) gill nets or seines shall not be used within the boat basin and marked entrance channel at Carolina Beach State Park, New Hanover County;

(4) mooring facilities and marinas: gill nets or seines shall not be used from May 1 through November 30 within:

(A) one-quarter mile of the shore from the east boundary fence to the west boundary fence at U.S. Coast Guard Base Fort Macon at Beaufort Inlet, Carteret County;

(B) canals within Pine Knoll Shores, Carteret County;

(C) Spooners Creek entrance channel and marina on Bogue Sound, Carteret County;

(D) Harbor Village Marina on Topsail Sound, Pender County; and

(E) marina and entrance canal within Carolina Marlin Club property adjacent to Newport River, Carteret County;

(5) Masonboro Inlet: gill nets and seines shall not be used:

(A) within 300 feet of either rock jetty; and

(B) within the area beginning 300 feet from the offshore end of the jetties to the Intracoastal Waterway including all the waters of the inlet proper and all the waters of Shinn Creek;

(6) Atlantic Ocean fishing piers: at a minimum, gill nets and seines shall not be used within 300 feet of ocean fishing piers when open to the public. If a larger closed area has been delineated by the placement of buoys or beach markers as authorized by G.S. 113-185(a), it shall be unlawful to fish from vessels or with nets within the larger marked zone;

(7) Topsail Beach, Pender County: it shall be unlawful to use gill nets and seines from 4:00 p.m. Friday until 6:00 a.m. the following Monday in the three finger canals on the south end of Topsail Beach;

(8) Mad Inlet to Tubbs Inlet - Atlantic Ocean, Brunswick County: it shall be unlawful to use gill nets and seines from September 1 through November 15, except that a maximum of four commercial gill nets per vessel not to exceed 200 yards in length individually or 800 yards in combination may be used; and

(9) Spooners Creek, Carteret County: it shall be unlawful to use gill nets and seines between sunset and sunrise in Spooners Creek entrance channel in Bogue Sound, all of Spooners Creek proper, and the adjoining tributary canals and channels.

History Note: *Authority G.S. 113-133; 113-134; 113-182; 143B-289.52;*
Eff. March 1, 1996;
Amended Eff. October 1, 2004; August 1, 2004; April 1, 2001;
Readopted Eff. August 23, 2022.

15A NCAC 03J .0404 OCEAN ARTIFICIAL REEF GEAR RESTRICTIONS

(a) For the purpose of this Rule:
(1) "hand line" shall mean fishing gear that is set and pulled by hand and consists of one vertical line to which may be attached leader lines with hooks.
(2) "hook and line" shall mean one or more hooks attached to one or more lines and shall include rod and reel, a fishing rod designed to be hand-held with a manually or electrically operated reel attached.
(3) "spearfishing gear" shall mean spears, Hawaiian slings, or similar devices that propel pointed implements by mechanical means, including elastic tubing or bands, pressurized gas, or similar means.

(b) It shall be unlawful to use fishing gear in Ocean Artificial Reefs designated in 15A NCAC 03R .0119 except hand line, hook and line, and spearfishing gear, and except as further limited in accordance with Paragraph (d) of this Rule.

(c) It shall be unlawful to possess finfish taken with spearfishing gear in excess of a recreational limit within the boundaries of a designated Ocean Artificial Reef.

(d) The Fisheries Director may, by proclamation, close the areas designated in 15A NCAC 03R .0119 to the use of specific fishing gear, including the gears otherwise allowed in Paragraph (b) of this Rule, based on biological impacts or user conflicts.

(e) The Fisheries Director may, by proclamation, designate and modify Ocean Artificial Reefs in Coastal Fishing Waters of the Atlantic Ocean, based on biological impacts or variable spatial distribution, including shifted artificial reef material.

History Note: *Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*
Eff. August 23, 2022.

SECTION .0500 – POUND NETS

15A NCAC 03J .0501 DEFINITIONS AND STANDARDS FOR POUND NETS AND POUND NET SETS

(a) The following definitions shall apply to this Section:
(1) "Deployed pound net" means setting of any part of a pound net except for a location identification stake or, for a pound net used in the Atlantic Ocean, a location identification buoy placed at each end of a proposed new location.
(2) "Flounder pound net" means a pound net set that produces a catch consisting of 50 percent or more flounder by weight of the entire landed catch, excluding blue crabs or a pound net set with all pounds (holding pen) constructed of four inch stretch mesh or greater.
(3) "Operational pound net set" means a pound net set as defined in 15A NCAC 03I .0101 and deployed according to rules and permit conditions with net attached to stakes or anchors for the lead and pound, including only a single pound in a multi-pound set, and a non-restricted opening leading into the pound such that the set is able to catch and hold fish.
(4) "Permit period" means from the date of issuance of a new or renewal Pound Net Set Permit to the expiration date.
(5) "Pound Net Set Permit" means a Division of Marine Fisheries authorization to set and fish a pound net set in a commercial fishing operation in a specified location in a specified fishery.
(6) "Shrimp pound net" means a pound net set with all pounds (holding pen) constructed of stretch mesh equal to or greater than one and one-fourth inches and less than or equal to two inches.

(b) It shall be unlawful for a pound net used in a commercial fishing operation to:
(1) be deployed on a site without first obtaining a Pound Net Set Permit from the Fisheries Director.
(2) fail to be operational for a minimum of 30 consecutive days during the Pound Net Set Permit period, except the Fisheries Director may, by proclamation, waive this requirement if a season for the fishery for which the pound net set is permitted is ended earlier due to a quota being met or for compliance with the N.C. Southern Flounder Fishery Management Plan.

(c) It shall be unlawful for a pound net set in a commercial fishing operation in coastal fishing waters to fail to:
(1) have the permittee's identification legibly printed on a sign no less than six inches square, securely attached to a stake at the permitted ends of each set at all times. For pound net sets in the Atlantic Ocean using anchors instead of stakes, the set shall be identified with a yellow buoy that shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than 11 inches in length. The permittee's identification shall be legibly printed on the buoy. The identification on signs or buoys shall include the Pound Net Set Permit number and the permittee's last name and initials.

(2) have yellow light reflective tape or yellow light reflective devices on each pound. The yellow light reflective tape or yellow light reflective devices shall be affixed to a stake of at least three inches in diameter on any outside corner of each pound, shall cover a vertical distance of not less than 12 inches, and shall be visible from all directions.

(3) have a marked navigational opening at least 25 feet wide at the end of every third pound. The opening shall be marked with yellow light reflective tape or yellow light reflective devices on each side of the opening. The yellow light reflective tape or yellow light reflective devices shall be affixed to a stake of at least three inches in diameter, shall cover a vertical distance of not less than 12 inches, and shall be visible from all directions.

If a permittee notified of a violation under this Paragraph fails or refuses to take corrective action sufficient to remedy the violation within 10 days of receiving notice of the violation, the Fisheries Director shall revoke the permit.

(d) It shall be unlawful to use a Recreational Commercial Gear License (RCGL) shrimp pound net as defined in 15A NCAC 03O .0302(a)(8) in coastal fishing waters unless the shrimp pound net is:

(1) marked by attaching to the offshore lead, a floating buoy, any shade of hot pink in color. Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The gear owner's last name and initials shall be engraved on the attached buoy or identified by attaching engraved metal or plastic tags to the buoy. If a vessel is used, the identification shall also include one of the following:

(A) gear owner's current motor boat registration number; or

(B) gear owner's U.S. vessel documentation name.

(2) set a minimum of 100 yards from a RCGL shrimp pound net set or 300 yards from a commercial permitted shrimp pound net set.

(e) Escape Panels:

(1) The Fisheries Director may, by proclamation, require escape panels in pound net sets and may impose any of the following requirements on the use of escape panels:

(A) specify size, number, and location;

(B) specify mesh length, but not more than six inches;

(C) specify time or season; and

(D) specify areas.

(2) It shall be unlawful to use flounder pound net sets without four unobstructed escape panels in each pound. The escape panels shall be fastened to the bottom and corner ropes on each wall on the side and back of the pound opposite the heart. The escape panels shall be a minimum mesh size of five and one-half inches, hung on the diamond, and shall be at least six meshes high and eight meshes long.

(f) The Fisheries Director shall by proclamation establish time periods between December 1 through February 1 and areas where it shall be unlawful to fail to remove all nets from pound net sets in commercial fishing operations in internal coastal waters.

(g) It shall be unlawful within 30 days of abandonment of a permitted pound net set to fail to remove all stakes and associated gear from coastal fishing waters. The responsible party for abandoned pound net gear may be charged the costs incurred by the Division when the Division undertakes removal of the abandoned pound net gear.

History Note: *Authority G.S. 113-134; 113-169.1; 113-181; 113-182; 113-221.1; 143B-289.52;*
Eff. April 1, 2009;
Readopted Eff. March 15, 2023.

15A NCAC 03J .0502 POUND NET SET PERMIT APPLICATION AND PROCESSING

(a) All initial, renewal, or transfer applications for Pound Net Set Permits, and the operation of such pound net sets, shall comply with the requirements governing all permits as provided in 15A NCAC 03O .0502. The procedures and requirements for obtaining permits are set forth in 15A NCAC 03O .0501.

(b) Applicants for Pound Net Set permits shall meet the following eligibility requirements as determined by the Fisheries Director:

(1) the applicant is an individual and not a corporation, partnership, organization, or other entity;

(2) the applicant has in the past complied with fisheries rules and laws and does not have any licenses under suspension or revocation as set forth in 15A NCAC 03O .0114 or any pound net set permits under suspension or revocation as set forth in 15A NCAC 03O .0504. In addition, a history of habitual fisheries violations evidenced by eight or more convictions as specified in 15A NCAC 03O .0114, G.S. 14-223, Chapter 75A, or G.S. 76-40 in 10 years shall make an individual ineligible.

(3) the applicant has in the past complied with all permit conditions, rules, and laws related to pound nets.

(4) the applicant holds proper valid licenses and permits necessary to fish the type of net indicated in the application.

(c) Applications for Pound Net Set permits shall include the following:

(1) a base map provided by the Division of Marine Fisheries indicating the proposed set location including an inset vicinity map showing the location of the proposed set with detail sufficient to permit on-site identification and location.

(2) declaration of the type of pound net that will be deployed at the site. One of the following pound net fisheries shall be specified:
(A) flounder pound net set;
(B) bait pound net set;
(C) shrimp pound net set;
(D) blue crab pound net set; or
(E) other finfish pound net set.

(d) For proposed new locations, the Fisheries Director shall issue a public notice of intent to consider issuance of a Pound Net Set Permit allowing for public comment for 20 days, and after the comment period, may hold public meetings to take comments on the proposed pound net set. If the Director does not approve or deny the application within 90 days of receipt of a complete and verified application, the application shall be deemed denied. The applicant shall be notified of denial in writing. Approval shall be conditional based upon the applicant's continuing compliance with eligibility requirements set out in Paragraph (e) of this Rule and specific conditions contained on the Pound Net Set Permit. The applicant may contest the denial of a Pound Net Set Permit application by filing a petition for a contested case under G.S. 150B-23.

(e) In order for a site to be deemed suitable for a pound net set, the proposed set location shall meet the following criteria as determined by the Fisheries Director:

(1) the proposed pound net set, either alone or when considered cumulatively with other existing pound net sets in the area, will not interfere with navigation or with existing, traditional uses of the area other than navigation, and will not violate 15A NCAC 03J .0101 and .0102;
(2) the proposed pound net set will not interfere with the rights of any riparian or littoral landowner, including the construction or use of piers;
(3) the proposed pound net set will not, by its proximate location, interfere with existing pound net sets in the area. Flounder or other finfish pound net sets will be a minimum of 1,000 yards, as measured in a perpendicular direction, from any point on a line following the permitted location of existing pound net sets; except
(A) in Chowan River as referenced in 15A NCAC 03J .0203; and
(B) for renewal of pound net sets permitted prior to January 1, 2003;
(4) the proposed shrimp or blue crab pound net set will be a minimum of 300 yards, as measured in a perpendicular direction, from any point on a line following the permitted location of existing pound net sets;
(5) the proposed pound net set is not located in Core Sound in areas designated in 15A NCAC 03R .0113 except that only those Pound Net Set permits valid within the specified area as of March 1, 1994, may be renewed or transferred subject to the requirements of this Rule; and
(6) issuance of the proposed Pound Net Set Permit is in compliance with management measures adopted in fishery management plans.

History Note: *Authority G.S. 113-134; 113-169.1; 113-181; 113-182; 113-182.1; 143B-289.52;*
Eff. April 1, 2009;
Readopted Eff. June 1, 2022.

15A NCAC 03J .0503 POUND NET SET PERMIT RENEWAL

An application for renewal of an existing Pound Net Set Permit shall be filed not less than 30 days prior to the date of expiration of the existing permit and shall not be processed unless filed by the permittee. The Fisheries Director shall review the renewal application under the criteria for issuance of a new Pound Net Set Permit, as set forth in the rules of this Section. The Fisheries Director may hold public meetings and may conduct such investigations necessary to determine if the permit should be renewed.

History Note: *Authority G.S. 113-134; 113-169.1; 113-181; 113-182; 143B-289.52;*
Eff. April 1, 2009;
Readopted Eff. June 1, 2022.

15A NCAC 03J .0504 POUND NET SET PERMIT TRANSFER

(a) It shall be unlawful to transfer a Pound Net Set Permit without a completed application for transfer being submitted to the Division of Marine Fisheries not less than 45 days before the date of the transfer. The application shall be made by the proposed new permittee in writing and shall be accompanied by a copy of the current permittee's permit and an application for a Pound Net Set Permit in the new permittee's name. The Fisheries Director may hold a public meeting and verify the location of the pound net set and that it is in compliance with all laws and rules to determine if the permit should be transferred. The transferred permit expires on the same date as the initial permit.

(b) Upon death of the permittee, the permit may be transferred to the Administrator/Executor of the estate of the permittee if transferred within six months of the Administrator/Executor's qualification in accordance with Chapter 28A of the North Carolina General Statutes. The Administrator/Executor shall provide a copy of the deceased permittee's death certificate, a copy of letters of administration/letters testamentary, and a list of eligible immediate family members as defined in G.S. 113-168 to the Morehead City Office of the Division. Once transferred to the Administrator/Executor, the Administrator/Executor may transfer the permit or permits to eligible immediate family members of the deceased permittee.
(c) No transfer is effective until approved and processed by the Division in accordance with 15A NCAC 03O .0501.

History Note: *Authority G.S. 113-134; 113-169.1; 113-181; 113-182; 143B-289.52;*
Eff. April 1, 2009;
Readopted Eff. June 1, 2022.

15A NCAC 03J .0505 POUND NET SET PERMIT CONDITIONS
(a) It shall be unlawful for a permittee to:
(1) fail to notify the Division of Marine Fisheries Communications Center by phone at 800-682-2632 or 252-726-7021 within 72 hours of:
(A) an operational pound net set. Notification shall include the name of permittee, type of net, Pound Net Set Permit number, county where located, a specific location site, and how many pounds are in the set; and
(B) a change to the type of net being set at the permitted site.
(2) make false notifications.
(3) fail to render the pound net set inoperable during any closed season for the type of fishery for which the pound net is permitted.

Failure to comply with this Paragraph shall be grounds for the Fisheries Director to revoke any Pound Net Set Permits held by the permittee and for denial of any future applications for Pound Net Set Permits.
(b) Pound net sets shall be subject to inspection at all times.
(c) Daily reporting may be a condition of the permit for a pound net set for fisheries under a quota.
(d) It shall be unlawful to fail to remove all pound net stakes and associated gear within 30 days after expiration of the permit or notice by the Fisheries Director that an existing Pound Net Set Permit has been revoked or denied.

History Note: *Authority G.S. 113-134; 113-169.1; 113-181; 113-182; 143B-289.52;*
Eff. April 1, 2009;
Readopted Eff. June 1, 2022.

SUBCHAPTER 03K – OYSTERS, CLAMS, SCALLOPS, AND MUSSELS

SECTION .0100 – SHELLFISH, GENERAL

15A NCAC 03K .0101 PROHIBITED ACTIVITIES IN POLLUTED SHELLFISH AREAS
(a) It shall be unlawful to possess, sell, or take oysters, clams, or mussels from areas that have been designated as polluted by proclamation by the Fisheries Director except as provided in Rules .0103, .0104, .0107, and .0401 of this Subchapter. The Fisheries Director shall issue shellfish polluted area proclamations if criteria for approved shellfish harvest areas in accordance with 15A NCAC 18A .0900 have not been met. The Fisheries Director may reopen any such closed area by proclamation if criteria for approved shellfish harvest areas in accordance with 15A NCAC 18A .0900 have been met. Copies of these proclamations and maps of these areas are available upon request at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557; 800-682-2632 or 252- 726-7021.
(b) The Fisheries Director may, by proclamation, close areas to the taking of oysters, clams, scallops, and mussels to protect the shellfish populations for management purposes or for protection of public health related to the public health programs that fall under the authority of the Marine Fisheries Commission not specified in Paragraph (a) of this Rule.
(c) It shall be unlawful to possess or sell oysters, clams, or mussels taken from polluted waters outside North Carolina, except as provided in 15A NCAC 03I .0104.

History Note: *Authority G.S. 113-134; 113-168.5; 113-169.2; 113-182; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. July 1, 1993;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. August 1, 2000;

Temporary Amendment Eff. October 1, 2001;
Amended Eff. October 1, 2008; April 1, 2003;
Readopted Eff. March 15, 2023.

15A NCAC 03K .0102 RAKES PROHIBITED

It shall be unlawful to use a rake more than 12 inches wide or weighing more than six pounds to take:

(1) oysters or scallops; or

(2) clams in any live oyster bed, or in any established bed of submerged aquatic vegetation as defined in 15A NCAC 03I .0101 or salt water cordgrass (Spartina alterniflora) that may exist together or separately.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. October 1, 2008; February 1, 2008;
Readopted Eff. March 15, 2023.

15A NCAC 03K .0103 SHELLFISH MANAGEMENT AREAS

(a) For the purpose of this Rule, "Shellfish Management Area" shall mean an area that has environmental conditions suitable for shellfish growth and survival that is designated to establish a localized regulatory strategy to improve the propagation of shellfish and has at least one of the following:

(1) planted cultch;

(2) existing shell; or

(3) existing live shellfish.

(b) The Fisheries Director may, by proclamation, designate and modify Shellfish Management Areas based on biological impacts or variable spatial distribution, including shifted material.

(c) It shall be unlawful to use a trawl net, long haul seine, or swipe net in any designated Shellfish Management Area.

(d) It shall be unlawful to take shellfish from any Shellfish Management Area that has been closed in accordance with Paragraph (b) of this Rule, except the Fisheries Director may, by proclamation, open specific areas to allow the taking of shellfish and may impose any of the following requirements based on biological impacts or user conflicts:

(1) specify time;

(2) specify area;

(3) specify means and methods except as set forth in Paragraph (c) of this Rule;

(4) specify season;

(5) specify size;

(6) specify quantity; and

(7) specify marking requirements.

History Note: *Authority G.S. 113-134; 113-182; 113-204; 113.221.1; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. March 1, 1994;
Temporary Amendment Eff. October 1, 2001;
Amended Eff. October 1, 2008; February 1, 2008; April 1, 2003;
Readopted Eff. March 15, 2023.

15A NCAC 03K .0104 PERMITS FOR RELAYING SHELLFISH FROM POLLUTED AREAS

(a) It shall be unlawful to take shellfish from polluted public waters or franchises for planting on shellfish leases and franchises except as authorized by G.S. 113-203. Shellfish lease and franchise holders shall first obtain a relay permit from the Fisheries Director setting forth the time, area, and method by which such shellfish may be taken. The procedures and requirements for obtaining permits are found in 15A NCAC 03O .0500.

(b) The application for a relay permit shall be received by the Division of Marine Fisheries at least 15 days prior to the start of relaying activities.

(c) All relaying activities, including removal, transport, and planting, shall be monitored and observed by the Division.

(d) The season for relaying shellfish may occur within a specified six week period between the date of the statewide closure of oyster season and June 30, as determined by the Fisheries Director based on the following factors:

(1) the status of shellfish resources available for harvest from public bottom;

(2) surface water temperatures that are below 50° F (10° C), when shellfish relay shall not occur;

(3) market factors affecting sale of shellfish from public bottom; and

(4) availability of Division of Marine Fisheries staff to monitor and observe the shellfish relaying activity.

(e) The Fisheries Director, shall close by proclamation any shellfish lease or franchise for which the owner has obtained a permit to relay shellfish from polluted public waters or franchises. The leases and franchises shall remain closed until the Fisheries Director issues a proclamation to reopen the leases and franchises to harvest. The reopening of the leases and franchises shall not occur any sooner than 21 days after the end of the relay season described in Paragraph (d) of this Rule.

History Note: *Authority G.S. 113-134; 113-182; 113-203; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. March 1, 1996; September 1, 1991;
Temporary Amendment Eff. October 1, 2001;
Amended Eff. April 1, 2003;
Readopted Eff. March 15, 2023.

15A NCAC 03K .0105 RECREATIONAL HARVEST OF SHELLFISH

(a) It shall be unlawful to take oysters or clams from public bottom on Sundays, and scallops from public bottom on Saturdays and Sundays except:

(1) during open seasons; and

(2) for recreational purposes.

(b) It shall be unlawful to possess, for recreational purposes, more than:

(1) 10 conchs or whelks per person per day, not to exceed 20 conchs or whelks per vessel per day;

(2) 100 mussels per person per day, not to exceed 200 mussels per vessel per day; and

(3) 100 clams per person per day, not to exceed 200 clams per vessel per day.

History Note: *Authority G.S. 113-134; 113-169.2; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. March 1, 1994; February 1, 1992; September 1, 1991;
Temporary Amendment Eff. October 9, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Amended Eff. May 1, 1997; March 1, 1996;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. October 1, 2008; August 1, 2000;
Readopted Eff. June 1, 2022.

15A NCAC 03K .0106 TAKING OR UNLOADING OYSTERS AND CLAMS ON SUNDAY OR AT NIGHT

(a) It shall be unlawful to take oysters or clams between the hours of sunset and sunrise on any day.

(b) It shall be unlawful to unload oysters or clams from any vessel or remove any vessel containing oysters or clams from the water on Sundays or between sunset and sunrise on any day except that in New Hanover, Pender, and Brunswick counties, oysters and clams may be unloaded until two hours after sunset.

(c) Oysters and clams taken on Sundays from public bottom under the provisions of Rule .0105 of this Section or from shellfish leases and franchises pursuant to G.S. 113-208 shall be exempt from Paragraph (b) of this Rule.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. October 1, 2008; August 1, 2000;
Readopted Eff. June 1, 2022.

15A NCAC 03K .0107 DEPURATION OF CLAMS AND OYSTERS

(a) It shall be unlawful to take clams or oysters from polluted public waters or franchises of the State for the purpose of depuration except when the harvest will utilize clams or oysters that would otherwise be destroyed in maintenance dredging operations. All harvest and transport activities within the State of North Carolina related to depuration shall be under the supervision of the Division of Marine Fisheries.

(b) The Fisheries Director, may, by proclamation, impose any of the following restrictions on the harvest of clams or oysters for depuration:

(1) specify species;

(2) specify areas, except harvest shall not be allowed from designated buffer zones adjacent to sewage outfall facilities;

(3) specify harvest days;
(4) specify time;
(5) specify size;
(6) specify quantity;
(7) specify harvest methods; and
(8) specify record keeping requirements.

(c) Depuration permits:

(1) it shall be unlawful for individuals to harvest clams or oysters from polluted waters for the purpose of depuration unless they have obtained a Depuration Permit or are listed as designees on a Depuration Permit from the Division setting forth the method of harvest to be employed. Permits shall be issued to licensed North Carolina clam or oyster dealers only. Permittees and designees harvesting under Depuration Permits shall have a current Shellfish License or Shellfish Endorsement on a Standard or Retired Standard Commercial Fishing License. The procedures and requirements for obtaining permits are found in 15A NCAC 03O .0500.

(2) in addition to information required in 15A NCAC 03O .0501, the permit application shall provide the name, address, location, and telephone number of the depuration operation where the shellfish will be depurated.

(3) clam or oyster dealers desiring to obtain clams or oysters from polluted waters for the purpose of depuration shall apply for a depuration permit at least 15 days prior to initiation of operation.

(d) Transport of clams or oysters for depuration:

(1) clams or oysters harvested from polluted waters for depuration in a depuration operation located within the State of North Carolina shall be transported under the supervision of the Division.

(2) clams or oysters harvested from polluted waters for depuration in a depuration operation outside the State of North Carolina shall not be transported within the State of North Carolina except under the supervision of the Division.

(e) It shall be unlawful to ship clams or oysters harvested for depuration to depuration facilities located in a state other than North Carolina unless the facility is in compliance with the applicable rules and laws of the shellfish control agency of that state.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Temporary Amendment Eff. October 1, 2001;
Amended Eff. October 1, 2008; April 1, 2003;
Readopted Eff. March 15, 2023.

15A NCAC 03K .0108 DREDGES AND MECHANICAL METHODS PROHIBITED

(a) It shall be unlawful to use mechanical methods, except mechanical methods for clamming and mechanical methods for oystering as defined in 15A NCAC 03I .0101, to take shellfish.

(b) It shall be unlawful to use mechanical methods for oystering or clamming to take shellfish not subject to the restrictions in Rules .0201, .0204, .0302, .0304, .0404, .0501, and .0503 of this Subchapter:

(1) within any established bed of submerged aquatic vegetation as defined in 15A NCAC 03I .0101 or salt water cordgrass (Spartina alterniflora) that may exist together or separately;

(2) in areas designated in 15A NCAC 03R .0108, except on shellfish leases and franchises with a Permit to Use Mechanical Methods for Shellfish on Shellfish Leases and Franchises;

(3) in areas designated in Rule .0204 of this Subchapter and 15A NCAC 03R .0103; and

(4) except following restrictions for the use of mechanical methods specified pursuant to 15A NCAC 03J .0303 and Rules .0201, .0302, .0404, .0501, and .0503 of this Subchapter.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;*
Eff. October 1, 2008;
Readopted Eff. March 15, 2023.

15A NCAC 03K .0109 SHELLFISH HARVEST TAGS

Consistent with the requirements of this Rule, it shall be unlawful to possess or sell oysters, clams, or mussels taken in a commercial fishing operation without a harvest tag affixed to each container of oysters, clams, or mussels. Tags shall be affixed by the harvester and remain in place while being transported to a certified shellfish dealer. Harvest tags shall remain attached to the container until the certified shellfish dealer breaks open the container for washing, grading, packing, other processing, or the container is shipped. Once the initial container is broken open or is emptied the harvest tag shall be kept on file, in chronological order, by the certified shellfish dealer for 90 days. It shall be unlawful for the tag to fail to meet the following criteria:

(1) harvest tags shall be identified as harvest tags. They shall be durable for at least 90 days, waterproof, and a minimum of two and five-eighths inches by five and one-fourth inches in size.

(2) harvest tags shall be securely fastened to each container in which shellstock is transported. A harvest tag shall remain securely fastened to each container at a certified shellfish dealer until replaced by a dealer tag once the container is broken open for processing or is shipped. Requirements for dealer tags are described in 15A NCAC 18A .0425. Harvesters who are also certified shellfish dealers may use only their dealer tag if it contains the required harvest and dealer information. The required information shall be included on all lots of shellfish subdivided or combined into market grades or market quantities by a harvester or a certified shellfish dealer.

(3) bulk harvest tags may be used when shellfish are harvested from one growing area on a single day by an individual harvester. Multiple containers may be utilized on a wrapped pallet, in a single boat, vehicle, conveyance, or other container, and tagged with a single harvest tag containing the information required in this Rule. The bulk tag shall also include a statement that "All shellstock containers in this lot have the same harvest date and area of harvest.", and include the number of individual containers in the unit or an estimate of the total weight, volume, or count.

(4) tags shall contain legible information arranged in the specific order as follows:

(a) the harvester's name, address, and Shellfish License or Standard or Retired Standard Commercial Fishing License with shellfish endorsement number;

(b) the date of harvest;

(c) the most precise identification of the harvest location as is practicable (e.g., Long Bay, Rose Bay), including the State's two initials "N.C." and the growing area designation;

(d) the shellfish lease or franchise number, if applicable;

(e) type and quantity of shellfish;

(f) the following statement in bold, capitalized font: "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON FILE, IN CHRONOLOGICAL ORDER, FOR 90 DAYS."; and

(g) the time of the start of harvest. The time of the start of harvest shall be the time when the first shellfish is initially removed from the water.

History Note: *Authority G.S. 113-134; 113-168.5; 113-169.2; 113-182; 143B-289.52;*
Eff. October 1, 2008;
Readopted Eff. March 15, 2023.

15A NCAC 03K .0111 PERMITS TO USE MECHANICAL METHODS FOR SHELLFISH ON SHELLFISH LEASES OR FRANCHISES

History Note: *Authority G.S. 113-134; 113-169.1; 113-182; 143B-289.52;*
Eff. May 1, 2015;
Repealed Eff. March 15, 2023.

SECTION .0200 – OYSTERS

15A NCAC 03K .0201 OYSTER HARVEST MANAGEMENT

(a) It shall be unlawful to take or possess oysters from public bottom except from October 15 through March 31.

(b) The Fisheries Director may, by proclamation, impose any of the following restrictions on the taking of oysters:

(1) specify time;

(2) specify area;

(3) specify means and methods;

(4) specify season within the period set forth in Paragraph (a) of this Rule;

(5) specify size, but the minimum size limit specified shall not be less than three inches, unless a smaller minimum size limit is necessary to prevent loss of oysters due to predators, pests, or infectious oyster diseases. In no case shall the minimum size limit be less than two and one-half inches; and

(6) specify quantity, but the quantity shall not exceed possession of more than 20 standard U.S. bushels in a commercial fishing operation per day.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. May 1, 2017; October 1, 2008; March 1, 1996; September 1, 1991;

Readopted Eff. June 1, 2022.

15A NCAC 03K .0202 CULLING REQUIREMENTS FOR OYSTERS

(a) It shall be unlawful to possess oysters that have accumulated dead shell, accumulated oyster cultch material, a shell length less than that specified by proclamation issued under the authority of Rule .0201 of this Section, or any combination thereof that exceeds a five-percent tolerance limit by volume. Oysters shall be culled where harvested and all oysters of less than legal size, accumulated dead shell, and cultch material shall be immediately returned to the bottom from which it was taken. In determining whether the tolerance limit has been exceeded, Marine Fisheries Inspectors shall be authorized and empowered to grade all, or any portion, or any combination of portions of the entire quantity being graded, and in cases of violations, may seize and return to public bottom or otherwise dispose of the oysters as authorized by law the entire quantity being graded or any portion thereof.

(b) This Rule shall not apply to oysters imported from out-of-state solely for shucking by shucking and packing plants permitted by the Division of Marine Fisheries.

History Note: *Authority G.S. 113-134; 113-136; 113-137; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. March 1, 1996; September 1, 1991;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. May 1, 2017; August 1, 2000;
Readopted Eff. March 15, 2023.

15A NCAC 03K .0204 MECHANICAL METHODS FOR OYSTERING PROHIBITED

It shall be unlawful to use any mechanical methods for oystering as defined in 15A NCAC 03I .0101 to take oysters:

(1) in the Mechanical Methods Prohibited areas designated in 15A NCAC 03R .0108, except on shellfish leases and franchises by a Permit to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises; and

(2) on any posted bottom upon which oysters or shells have been planted by the State, unless such bottom has been opened to the public and mechanical methods for oystering are allowed.

History Note: *Authority G.S. 113-134; 113-182; 113-204; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. August 1, 2004; May 1, 1997;
Readopted Eff. March 15, 2023.

15A NCAC 03K .0205 MARKETING OYSTERS TAKEN FROM A SHELLFISH LEASE OR FRANCHISE

(a) It shall be unlawful to take, possess, buy, or sell oysters from a shellfish lease or franchise during the open season unless such oysters have been culled in accordance with Rule .0202 of this Section.

(b) All commercial oyster harvesting operations shall operate in accordance with any proclamations issued under the authority of Rule .0110 of this Subchapter.

(c) It shall be unlawful for a shellfish lease or franchise holder or the holder's designees to take or possess oysters from public bottom while possessing aboard a vessel oysters taken from a lease or franchise.

(d) It shall be unlawful for a shellfish lease or franchise holder or the holder's designees to fail to obtain an Aquaculture Operation Permit if the lease or franchise has material extending more than 18 inches above the leased bottom or uses equipment including cages, bags, or predator nets to cultivate shellfish.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. September 1, 1991;
Temporary Amendment Eff October 1, 2001;
Amended Eff. April 1, 2003;
Readopted Eff. March 15, 2023.

15A NCAC 03K .0207 OYSTER SIZE AND HARVEST LIMIT EXEMPTIONS

Possession and sale of oysters by a hatchery or aquaculture operation and purchase and possession of oysters from a hatchery or aquaculture operation shall be exempt from bag and size limit restrictions as set forth in Rules .0201 and .0202 of this Section. It shall be unlawful to possess, sell, purchase, or transport such oysters unless they are in compliance with all conditions of the Aquaculture Operation Permit as set forth in 15A NCAC 03O .0503.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;*
Temporary Adoption Eff. October 1, 2001;
Eff. April 1, 2003;
Readopted Eff. March 15, 2023.

15A NCAC 03K .0208 SEED OYSTER MANAGEMENT AREAS

(a) For the purpose of this Rule and 15A NCAC 03R .0116, "Seed Oyster Management Area" shall mean a shellfish producing habitat area located in open harvest waters that has environmental conditions unsuitable for shellfish growth and survival that is designated to establish a localized regulatory strategy to allow the transfer of oysters to shellfish leases or franchises that have more suitable environmental conditions for further grow-out.

(b) The Fisheries Director may, by proclamation, modify or close Seed Oyster Management Areas designated in 15A NCAC 03R .0116 for the protection of public health related to the public health programs under the authority of the Marine Fisheries Commission.

(c) It shall be unlawful to take oysters from Seed Oyster Management Areas designated in 15A NCAC 03R .0116 for planting on shellfish leases or franchises without first obtaining a Permit to Transplant Oysters from Seed Oyster Management Areas from the Fisheries Director. The procedures and requirements for obtaining permits are set forth in 15A NCAC 03O .0501.

(d) It shall be unlawful to use a trawl net, long haul seine, or swipe net in any designated Seed Oyster Management Area.

History Note: *Authority G.S. 113-134; 113-182; 113-203; 113-221.1; 143B-289.52;*
Eff. October 1, 2008;
Readopted Eff. March 15, 2023.

15A NCAC 03K .0209 OYSTER SANCTUARIES

(a) For the purpose of this Rule and 15A NCAC 03R .0117, "Oyster Sanctuary" shall mean a type of artificial reef and shellfish producing habitat constructed for the purpose of oyster restoration that is managed to sustain populations of oyster broodstock. An Oyster Sanctuary is constructed to maximize habitat complexity and designed to meet its intended function for a minimum of 30 years.

(b) The Fisheries Director may, by proclamation, close Oyster Sanctuary areas designated in 15A NCAC 03R .0117 to the use of specific fishing gears based on biological impacts or user conflicts.

(c) The Fisheries Director may, by proclamation, designate and modify Oyster Sanctuaries based on biological impacts or variable spatial distribution, including shifted material.

(d) It shall be unlawful to use mechanical methods in, or take shellfish from, Oyster Sanctuaries designated in 15A NCAC 03R .0117 or in accordance with Paragraph (c) of this Rule.

(e) It shall be unlawful to use a trawl net, long haul seine, or swipe net in any designated Oyster Sanctuary.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 113-204; 143B-289.52;*
Eff. October 1, 2008;
Readopted Eff. March 15, 2023.

SECTION .0300 – HARD CLAMS (MERCENARIA)

15A NCAC 03K .0301 SIZE AND HARVEST LIMITS OF CLAMS

(a) It shall be unlawful to take, land, or possess aboard a vessel more than 6,250 hard clams per commercial fishing operation from public bottom in internal waters. It shall be unlawful to take, possess, sell, or purchase any clams (except Rangia or freshwater clams) less than one inch thick except in accordance with Rule .0305 of this Section. Clams shall be culled where harvested and all clams of less than legal size with their shell, shall be immediately returned to the bottom from which they were taken. In determining whether the size and harvest limits have been exceeded, Marine Fisheries Inspectors shall be authorized and empowered to grade all, or any portion, or any combination of portions of the entire quantity being graded, and in cases of violations, may seize and return to public bottom or otherwise dispose of the clams as authorized by law the entire quantity being graded or any portion thereof.

(b) Size and harvest limits established in Paragraph (a) of this Rule and the season and area limitations established in Rule .0302 of this Section may or may not apply for:

(1) harvest limits for temporary openings consistent with the requirements of 15A NCAC 18A .0900 and the North Carolina Hard Clam Fishery Management Plan;
(2) maintenance dredging operations, when clams would otherwise be destroyed, upon approval by the Division of Marine Fisheries and consistent with the North Carolina Hard Clam Fishery Management Plan; or
(3) relaying of clams from polluted waters to private shellfish bottom as permitted by Rule .0104 of this Subchapter.

History Note: *Authority G.S. 113-134; 113-136; 113-137; 113-182; 143B-289.52;*

Eff. January 1, 1991;
Amended Eff. March 1, 1994;
Readopted Eff. March 15, 2023.

15A NCAC 03K .0302 MECHANICAL HARVEST OF CLAMS FROM PUBLIC BOTTOM

(a) It shall be unlawful to take, buy, sell, or possess any clams taken by mechanical methods for clamming as defined in 15A NCAC 03I .0101 from public bottom unless the season is open.

(b) The Fisheries Director may, by proclamation, open and close the season for the taking of clams by mechanical methods from public bottom at any time in the Atlantic Ocean and only from December 1 through March 31 in Internal Waters.

(c) The Fisheries Director may, by proclamation, open to the taking of clams by mechanical methods from public bottom during open seasons only areas that were opened at any time from January 1979 through September 1988 in:

(1) Newport, North, White Oak, and New rivers;
(2) Core and Bogue sounds;
(3) the Intracoastal Waterway north of "BC" Marker at Topsail Beach; and
(4) the Atlantic Ocean.

Other areas opened for purposes as set out in Rule .0301(b) of this Section shall open only for those purposes. A list of areas as described in this Paragraph is available upon request at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557.

(d) The Fisheries Director may, by proclamation, impose any of the following additional restrictions for the taking of clams by mechanical methods from public bottom during open seasons:

(1) specify time;
(2) specify means and methods;
(3) specify size; and
(4) specify quantity.

History Note: *Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Temporary Amendment Eff. October 1, 2001;
Amended Eff. May 1, 2017; April 1, 2003;
Readopted Eff. June 1, 2022.

15A NCAC 03K .0304 PROHIBITED TAKING OF CLAMS

(a) It shall be unlawful to take clams by mechanical methods for clamming as defined in 15A NCAC 03I .0101, except as provided in Rule .0302 of this Section. Regardless of the areas that may be opened, it shall be unlawful to take clams by hand tongs in any established bed of submerged aquatic vegetation as defined in 15A NCAC 03I .0101 or salt water cordgrass (Spartina alterniflora) that may exist together or separately.

(b) It shall be unlawful to possess clam trawls or cages aboard a vessel at any time, or have kick or deflector plates otherwise used in the mechanical harvest of clams affixed to a vessel at any time, except during the time period specified for a mechanical clam harvest season in Internal Waters in accordance with Rule .0302(a) of this Section. A period of 14 days before and after the season as specified by proclamation shall be allowed for the installation and removal of kick or deflector plates and clam trawls or cages. Vessels with permits for activities provided for in Rules .0104, .0107, and .0401 of this Subchapter shall be exempt from this Rule during the times those activities are permitted.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. October 1, 2008; February 1, 2008; May 1, 1997; July 1, 1993;
Readopted Eff. March 15, 2023.

15A NCAC 03K .0305 CLAM SIZE AND HARVEST LIMIT EXEMPTIONS

Possession and sale of clams by a hatchery or aquaculture operation and purchase and possession of clams from a hatchery or aquaculture operation shall be exempt from bag and size limit restrictions as set forth in Rule .0301 of this Section. It shall be unlawful to possess, sell, purchase, or transport such clams unless they are in compliance with all conditions of the Aquaculture Operation Permit as set forth in 15A NCAC 03O .0503.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;*
Eff. January 1, 1991;

Amended Eff. September 1, 1991;
Readopted Eff. March 15, 2023.

SECTION .0400 – RANGIA CLAMS

15A NCAC 03K .0401 POLLUTED AREA PERMIT REQUIREMENTS

It shall be unlawful to take Rangia clams or their shells by any method from polluted waters without first obtaining a Permit to Harvest Rangia Clams from Polluted Areas from the Fisheries Director. The permit application shall include a list of all designees operating under the permit. The permit shall designate the area, means and methods, and times in which Rangia clams may be taken. The permit applicant shall designate the licensed fish dealer where the Rangia clams are to be landed and the method for disposing of Rangia clam meats. The procedures and requirements for obtaining permits are found in 15A NCAC 03O .0500.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. August 1, 2004;
Readopted Eff. March 15, 2023.

SECTION .0500 – SCALLOPS

15A NCAC 03K .0505 SEA SCALLOPS SIZE LIMIT AND TOLERANCE

It shall be unlawful to land or possess more than 10 percent by number sea scallops with a shell height of less than three and one-half inches. In determining whether the 10 percent tolerance limit has been exceeded, Marine Fisheries Inspectors shall be authorized and empowered to grade all, or any portion, or any combination of portions of the entire quantity being graded, and in cases of violations, may seize and return to public bottom or otherwise dispose of the sea scallops as authorized by law the entire quantity being graded or any portion therof.

History Note: *Authority G.S. 113-134; 113-136; 113-137; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Readopted Eff. March 15, 2023.

15A NCAC 03K .0507 MARKETING SCALLOPS TAKEN FROM A SHELLFISH LEASE OR FRANCHISE

(a) All commercial scallop harvesting operations shall operate in accordance with any proclamations issued under the authority of Rule .0110 of this Subchapter.
(b) It shall be unlawful for a shellfish lease or franchise holder or the holder's designees to take or possess scallops from public bottom while possessing aboard a vessel scallops taken from a lease or franchise.
(c) It shall be unlawful for a shellfish lease or franchise holder or the holder's designees to fail to obtain an Aquaculture Operation Permit if the lease or franchise has material extending more than 18 inches above the leased bottom or uses equipment including cages, bags, or predator nets to cultivate shellfish.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;*
Eff. May 1, 2015;
Readopted Eff. April 1, 2019;
Amended Eff. March 15, 2023.

SUBCHAPTER 03L – SHRIMP, CRAB, AND LOBSTER

SECTION .0100 - SHRIMP

15A NCAC 03L .0101 SHRIMP HARVEST RESTRICTIONS

(a) It shall be unlawful to take shrimp until the Fisheries Director, by proclamation, opens the season.
(b) The Fisheries Director may, by proclamation, impose any of the following restrictions on the taking of shrimp:
(1) specify time;
(2) specify area;
(3) specify means and methods;
(4) specify season;

(5) specify size; and
(6) specify quantity.

History Note: *Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. May 1, 2015;
Readopted Eff. June 1, 2022.

15A NCAC 03L .0102 WEEKEND SHRIMPING PROHIBITED

It shall be unlawful to take shrimp by any method from 9:00 p.m. on Friday through 5:00 p.m. on Sunday, except:

(1) in the Atlantic Ocean;
(2) with the use of fixed nets, channel nets, hand seines, shrimp pots, or cast nets; or
(3) for a holder of a Permit for Weekend Trawling for Live Shrimp in accordance with 15A NCAC 03O .0503.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. May 1, 2017; August 1, 2004; March 1, 1994;
Readopted Eff. March 15, 2023.

15A NCAC 03L .0103 PROHIBITED NETS, MESH LENGTHS, AND AREAS

(a) It shall be unlawful to take shrimp with nets with mesh lengths less than the following:

(1) trawl nets: one and one-half inches;
(2) fixed nets, channel nets, float nets, butterfly nets, and hand seines: one and one-fourth inches; and
(3) cast nets: no restriction.

(b) It shall be unlawful to take shrimp with a net constructed in such a manner as to contain an inner or outer liner of any mesh length. Net material used as chafing gear shall be no less than four inches mesh length, except that chafing gear with smaller mesh may be used only on the bottom one-half of the tailbag. Such chafing gear shall not be tied in a manner that forms an additional tailbag.

(c) It shall be unlawful to take shrimp with trawls that have a combined headrope of greater than 90 feet in Internal Waters in the following areas:

(1) north of the 35° 46.3000' N latitude line;
(2) Core Sound south of a line beginning at a point 34° 59.7942' N - 76° 14.6514' W on Camp Point; running easterly to a point 34° 58.7853' N - 76° 09.8922' W on Core Banks; to the South Carolina State Line;
(3) Pamlico River upstream of a line from a point 35° 18.5882' N - 76° 28.9625' W at Pamlico Point; running northerly to a point 35° 22.3741' N - 76° 28.6905' W at Willow Point; and
(4) Neuse River southwest of a line from a point 34° 58.2000' N - 76° 40.5167' W at Winthrop Point on the eastern shore of the entrance to Adams Creek; running northerly to a point 35° 01.0744' N - 76° 42.1550' W at Windmill Point at the entrance of Greens Creek at Oriental.

(d) It shall be unlawful to take shrimp with trawls that have a combined headrope of greater than 220 feet in Internal Waters in the following areas:

(1) Pamlico Sound south of the 35° 46.3000' N latitude line and north of a line beginning at a point 34° 59.7942' N - 76° 14.6514' W on Camp Point; running easterly to a point 34° 58.7853' N - 76° 09.8922' W on Core Banks;
(2) Pamlico River downstream of a line from a point 35° 18.5882' N - 76° 28.9625' W at Pamlico Point; running northerly to a point 35° 22.3741' N - 76° 28.6905' W at Willow Point; and
(3) Neuse River northeast of a line from a point 34° 58.2000' N - 76° 40.5167' W at Winthrop Point on the eastern shore of the entrance to Adams Creek; running northerly to a point 35° 01.0744' N - 76° 42.1550' W at Windmill Point at the entrance of Greens Creek at Oriental.

(e) It shall be unlawful to use a shrimp trawl in the areas described in 15A NCAC 03R .0114.

(f) It shall be unlawful to use channel nets except as provided in 15A NCAC 03J .0106.

(g) It shall be unlawful to use shrimp pots except as provided in 15A NCAC 03J .0301.

(h) It shall be unlawful to use a shrimp trawl that does not conform with the federal rule requirements for Turtle Excluder Devices (TED) as specified in 50 CFR Part 222.102 Definitions, 50 CFR Part 223.205 (a) and Part 223.206 (d) Gear Requirements for Trawlers, and 50 CFR Part 223.207 Approved TEDs. These federal rules are incorporated by reference including subsequent amendments and editions. Copies of these rules are available via the Code of Federal Regulations posted on the Internet at https://www.ecfr.gov/cgi-bin/ECFR and at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557 at no cost.

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

Eff. January 1, 1991;
Amended Eff. May 1, 2015; April 1, 2009; July 1, 2006;
Readopted Eff. March 15, 2023.

15A NCAC 03L .0105 RECREATIONAL SHRIMP LIMITS

It shall be unlawful to:

(1) possess from areas open to the harvest of shrimp more than 48 quarts, heads on or 30 quarts, heads off, of shrimp per person per day or if a vessel is used, per vessel per day for recreational purposes except as provided in 15A NCAC 03O .0303(e) and (f).

(2) take or possess more than four quarts, heads on or two and one-half quarts, heads off, of shrimp per person per day with a cast net from areas closed to the commercial taking of shrimp.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. April 1, 2009;
Amended Eff. May 1, 2015; June 1, 2013;
Readopted Eff. March 15, 2023.

SECTION .0200 – CRAB

15A NCAC 03L .0201 CRAB HARVEST RESTRICTIONS

(a) It shall be unlawful to possess blue crabs taken from Crab Harvest Management Areas designated in 15A NCAC 03R .0118(1) from January 1 through January 31, except dealers shall have seven days after the beginning of the closure to sell, offer for sale, or transport blue crabs that were taken from this area prior to the closure.

(b) It shall be unlawful to possess blue crabs taken from Crab Harvest Management Areas designated in 15A NCAC 03R .0118(2) from March 1 through March 15, except dealers shall have seven days after the beginning of the closure to sell, offer for sale, or transport blue crabs that were taken from this area prior to the closure.

(c) It shall be unlawful to possess more than five percent by number of the following hard blue crabs in any combination in any container:

(1) male hard blue crabs less than five inches from tip of spike to tip of spike;

(2) immature female hard blue crabs;

(3) mature female hard blue crabs less than five inches from tip of spike to tip of spike; and

(4) mature female hard blue crabs with a dark (brown or black) sponge from April 1 through April 30 statewide. For the purpose of this Rule, a "mature female hard blue crab with a dark sponge" shall mean a mature female hard crab that has extruded her eggs on the abdomen or abdominal flap and the eggs have developed a coloration ranging from any shade of brown through black.

(d) It shall be unlawful to possess blue crabs described in Subparagraphs (c)(1) through (c)(3) of this Rule unless individual crabs are sorted and placed into separate containers for each of the following categories:

(1) soft crabs;

(2) pink and red-line peeler crabs;

(3) white line peeler crabs; and

(4) from March 1 through October 31, male crabs to be used as peeler crab bait.

All blue crabs not sorted into containers as specified shall be deemed hard blue crabs for the purpose of establishing the five percent tolerance described in Paragraph (c) of this Rule.

(e) It shall be unlawful to possess more than five percent by number of white-line peeler crabs in a container of pink and red-line peeler crabs.

(f) It shall be unlawful to:

(1) sell white-line peeler crabs;

(2) possess white-line peeler crabs unless they are to be used in the harvester's permitted blue crab shedding operation; or

(3) possess male white-line peeler crabs from June 1 through September 1.

(g) It shall be unlawful to possess more than 50 blue crabs per person per day, not to exceed 100 blue crabs per vessel per day for recreational purposes.

(h) In order to comply with management measures adopted in the N.C. Blue Crab Fishery Management Plan, the Fisheries Director may, by proclamation, close the harvest of blue crabs and may further restrict commercial and recreational blue crab harvest by imposing any of the following requirements on the taking of blue crabs:

(1) specify areas;

(2) specify seasons;
(3) specify time periods;
(4) specify means and methods;
(5) specify culling tolerance; and
(6) specify limits on harvest based on size, quantity, sex, reproductive stage, or peeler stage.

(i) It shall be unlawful to fail to immediately return hard blue crabs not meeting the requirements of this Rule to the waters from which they were taken.

History Note: *Authority G.S. 113-134; 113-182; 113-182.1; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. April 1, 1997; July 1, 1993;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. April 1, 2014; September 1, 2005; August 1, 2000;
Readopted Eff. March 15, 2023.

15A NCAC 03L .0202 CRAB TRAWLING

(a) It shall be unlawful to take or possess aboard a vessel crabs taken by trawl in internal waters except in areas and during such times as the Fisheries Director may specify by proclamation.

(b) It shall be unlawful to use a trawl to take crabs that does not meet mesh length requirements, except as provided in 15A NCAC 03J .0104. The minimum mesh length to take hard crabs with a trawl shall be three inches, except:

(1) the minimum mesh length shall be four inches in the area of western Pamlico Sound west of a line beginning at a point 35° 48.3693' N - 75° 43.7232' W on Roanoke Marshes Point; running easterly to a point 35° 48.3000' N - 75° 37.1167' W near Beacon "1" at the southern end of Roanoke Island; running southerly to a point 35° 30.7500' N - 75° 40.5667' W near the "S" Beacon at Long Shoal; running southwesterly to a point 35° 12.6167' N - 76° 04.3833' W near the "BL" Beacon on Bluff Shoal; running westerly to a point 35° 08.1000' N - 76° 17.5000' W near the "BI" Beacon at Brant Island Shoal; running southwesterly to a point 35° 04 .6167' N - 76° 27.8000' W on Point of Marsh; and

(2) the Fisheries Director may, by proclamation, specify areas other than the area described in Subparagraph (b)(1) of this Rule for trawl mesh length use and increase the minimum trawl mesh length to no more than four inches to take hard crabs.

(c) It shall be unlawful to use a trawl with a mesh length less than two inches or with a combined total headrope length exceeding 25 feet to take soft or peeler crabs, except as provided in 15A NCAC 03J .0104.

History Note: *Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*
Eff. February 1, 1991;
Amended Eff. April 1, 2014; September 1, 2005; August 1, 2004; March 1, 1994; September 1, 1991;
Readopted Eff. March 15, 2023.

15A NCAC 03L .0203 CRAB DREDGING

It shall be unlawful to take crabs with dredges except incidental to lawful oyster dredging operations provided the weight of the crabs shall not exceed the lesser of:

(1) 10 percent of the total weight of the combined oyster and crab catch; or
(2) 100 pounds.

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

History Note: *Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. April 1, 2014; May 1, 1997;
Readopted Eff. March 15, 2023.

15A NCAC 03L .0204 CRAB POTS

(a) It shall be unlawful to take crabs with pots except as provided in 15A NCAC 03J .0301 and .0302. The Fisheries Director may, by proclamation authority established in 15A NCAC 03L .0201, further restrict the use of pots to take blue crabs.

(b) The Fisheries Director may, by proclamation, require the use of terrapin excluder devices in each funnel entrance in crab pots and impose the following restrictions concerning terrapin excluder devices:

(1) specify areas;

(2) specify time periods; and
(3) specify means and methods.

History Note: *Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. April 1, 2014;
Readopted Eff. March 15, 2023.

15A NCAC 03L .0205 CRAB SPAWNING SANCTUARIES

(a) It shall be unlawful to set or use trawls, pots, or mechanical methods for shellfish or take crabs with the use of commercial fishing equipment in crab spawning sanctuaries:
(1) from March 1 through August 31 for the crab spawning sanctuaries described in 15A NCAC 03R .0110(1); and
(2) from March 1 through October 31 for the crab spawning sanctuaries described in 15A NCAC 03R .0110(2).

(b) The Fisheries Director may, by proclamation, designate additional areas as crab spawning sanctuaries and may impose the following restrictions in any crab spawning sanctuary:
(1) specify areas;
(2) specify time periods;
(3) specify means and methods; and
(4) specify limits on harvest based on size, quantity, sex, reproductive stage, or peeler stage.

History Note: *Authority G.S. 113-134; 113-182; 113-182.1; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. May 1, 1997;
Temporary Amendment Eff. October 2, 1999;
Amended Eff. April 1, 2014; April 1, 2001;
Readopted Eff. March 15, 2023.

15A NCAC 03L .0207 HORSESHOE CRABS

(a) The annual (January through December) commercial quota for North Carolina for horseshoe crabs is established by the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab.

(b) The Fisheries Director may, by proclamation, impose any of the following restrictions on the taking of horseshoe crabs to maintain compliance with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab or to implement State management measures:
(1) specify time;
(2) specify area;
(3) specify means and methods;
(4) specify season;
(5) specify size; and
(6) specify quantity.

History Note: *Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*
Temporary Adoption Eff. August 1, 2000;
Codifier determined that findings did not meet criteria for temporary rule on October 31, 2000;
Temporary Adoption Eff. December 6, 2000;
Eff. August 1, 2002;
Amended Eff. April 1, 2011;
Readopted Eff. April 1, 2022.

15A NCAC 03L .0210 REPACKING OF FOREIGN CRAB MEAT PROHIBITED

It shall be unlawful to repack foreign crab meat in North Carolina into another container. For the purpose of this Rule, "foreign" shall mean any place or location outside the United States. This Rule shall apply to all facilities and persons permitted in accordance with 15A NCAC 18A .0135. This Rule shall not apply to crab meat that has been transformed into another product, such as crab cakes or other value-added products.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. August 23, 2022.

SECTION .0300 – LOBSTER

15A NCAC 03L .0301 AMERICAN LOBSTER (NORTHERN LOBSTER)

(a) It shall be unlawful to possess American lobster:

(1) that has eggs or from which eggs have been artificially removed by any method;
(2) meats, detached meats, detached tails or claws, or any other part of a lobster that has been separated from the lobster;
(3) that has an outer shell which has been speared; or
(4) that is a V-notched female lobster. A V-notched female lobster is any female lobster that bears a notch or indention in the base of the flipper that is at least as deep as 1/8 inch, with or without setal hairs. A V-notched female lobster is also any female lobster that is mutilated in a manner that would hide, obscure, or obliterate such a mark.

(b) The Fisheries Director may, by proclamation, impose any of the following restrictions on the taking of American lobster to maintain compliance with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for American Lobster or to implement State management measures:

(1) specify time;
(2) specify area;
(3) specify means and methods;
(4) specify season;
(5) specify size; and
(6) specify quantity.

History Note: *Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. March 1, 1996;
Temporary Amendment Eff. August 1, 2000;
Amended Eff. April 1, 2009; September 1, 2005; April 1, 2001;
Readopted Eff. August 23, 2022.

15A NCAC 03L .0302 SPINY LOBSTER

The Fisheries Director may, by proclamation, impose any of the following restrictions on the taking of spiny lobster to maintain compliance with the Fishery Management Plan for Spiny Lobster in the Gulf of Mexico and the South Atlantic or to implement State management measures:

(1) specify time;
(2) specify area;
(3) specify means and methods;
(4) specify season;
(5) specify size; and
(6) specify quantity.

History Note: *Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. March 1, 1996;
Readopted Eff. April 1, 2022.

SUBCHAPTER 03M – FINFISH

SECTION .0200 – STRIPED BASS

15A NCAC 03M .0201 STRIPED BASS REQUIREMENTS; GENERAL

(a) For the purpose of this Section, "striped bass" shall mean striped bass (Morone saxatilis) and its hybrids taken in Coastal and Joint Fishing Waters or imported from other states.

(b) It shall be unlawful to possess striped bass that are less than 18 inches long (total length) imported from other states.

(c) It shall be unlawful to import, buy, sell, transport, offer to buy or sell, or possess striped bass except during any:

(1) open striped bass season established for Internal Waters;
(2) open striped bass season established for the Atlantic Ocean; or
(3) open striped bass season of another state while in possession of the following:
(A) a bill of lading as described in 15A NCAC 03I .0114; and

(B) a numbered, state-issued tag from the state of origin affixed through the mouth and gill cover. This tag must remain affixed until processed for consumption by the consumer.

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

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. March 1, 1994; September 1, 1991;
Temporary Amendment Eff. May 1, 2000;
Amended Eff. June 1, 2013; October 1, 2008; October 1, 2004; April 1, 2001;
Readopted Eff. March 15, 2023.

15A NCAC 03M .0202 STRIPED BASS SEASON, SIZE, AND HARVEST LIMIT: INTERNAL WATERS

(a) It shall be unlawful to possess striped bass from the Coastal Fishing Waters of the Cape Fear River and its tributaries.

(b) It shall be unlawful to possess striped bass from the Roanoke River Management Area, as designated in 15A NCAC 03R .0201, in a commercial fishing operation.

(c) The Fisheries Director may, by proclamation, impose any of the following restrictions on the taking of striped bass in a commercial fishing operation or for recreational purposes in Internal Waters during the period from October 1 through April 30:

(1) specify fishing days and times;
(2) specify area;
(3) specify means and methods;
(4) specify size, but the minimum size specified shall not be less than 18 inches total length; and
(5) specify quantity, except possession for recreational purposes shall not exceed:
(A) more than three fish in any one day in the Albemarle Sound Management Area, as designated in 15A NCAC 03R .0201; and
(B) more than two fish in any one day in the Joint and Coastal Fishing Waters of the Central Southern Management Area, as designated in 15A NCAC 03R .0201.

Fish that do not meet the minimum size limit specified by proclamation shall immediately be returned to the waters from which taken regardless of condition.

History Note: *Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. March 1, 1996; November 1, 1991;
Temporary Amendment Eff. September 1, 1996;
Amended Eff. April 1, 1997;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. June 1, 2013; July 1, 2008; August 1, 2000;
Readopted Eff. March 15, 2023.

15A NCAC 03M .0204 STRIPED BASS SEASON, SIZE, AND HARVEST LIMIT: ATLANTIC OCEAN

It shall be unlawful to possess striped bass taken from the Atlantic Ocean other than the size limit as established by the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Atlantic Striped Bass. The Fisheries Director shall issue proclamations necessary to bring North Carolina's size limit in compliance with the Interstate Fishery Management Plan.

History Note: *Authority G.S. 113-134; 113-182; 113-182.1; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. March 1, 1996;
Temporary Amendment Eff. October 1, 1996;
Amended Eff. October 1, 2008; July 1, 1998;
Readopted Eff. June 1, 2022.

15A NCAC 03M .0205 STRIPED BASS; PROHIBITED TRAWLING

(a) It shall be unlawful to possess striped bass on a vessel with a trawl net on that vessel in Internal Waters except during transit from ocean fishing grounds to port during any open striped bass trawl season in the Atlantic Ocean established by proclamation. Striped bass so possessed shall meet the minimum size limit set by proclamation issued under the authority of Rules .0204 or .0512 of this Subchapter.

(b) It shall be unlawful to possess striped bass on a vessel in the Atlantic Ocean with a trawl net on that vessel except during any open striped bass trawl season in the Atlantic Ocean established by proclamation issued under the authority of Rules .0204 or .0512 of this Subchapter.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. December 1, 2007;
Readopted Eff. March 15, 2023.

SECTION .0300 – SPANISH AND KING MACKEREL

15A NCAC 03M .0301 SPANISH AND KING MACKEREL

History Note: *Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. March 1, 1996;
Temporary Amendment Eff. January 1, 2000; July 1, 1999;
Amended Eff. October 1, 2008; August 1, 2002; April 1, 2001;
Repealed Eff. April 1, 2022.

15A NCAC 03M .0302 PURSE GILL NET PROHIBITED

It shall be unlawful to have a purse gill net on board a vessel when taking or landing Spanish or king mackerel.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Readopted Eff. August 23, 2022.

SECTION .0500 – OTHER FINFISH

15A NCAC 03M .0503 FLOUNDER

(a) It shall be unlawful to possess flounder less than 14 inches total length taken from the Atlantic Ocean in a commercial fishing operation.

(b) From October 1 through April 30, it shall be unlawful to use a trawl in the Atlantic Ocean within three miles of the ocean beach from the North Carolina/Virginia state line (36° 33.000'N) to Cape Lookout (34° 36.000'N) unless each trawl has a mesh length of five and one-half inches or larger diamond mesh (stretched) or six inches or larger square mesh (stretched) applied throughout the body, extensions, and the cod end (tailbag) of the net except as provided in Paragraphs (g) and (h) of this Rule.

(c) License to Land Flounder from the Atlantic Ocean:

(1) it shall be unlawful to land more than 100 pounds per trip of flounder taken from the Atlantic Ocean unless the owner of the vessel, or in the case of Land or Sell Licenses, the responsible party, has been issued a License to Land Flounder from the Atlantic Ocean and the vessel in use is the vessel specified on the License to Land Flounder from the Atlantic Ocean.

(2) it shall be unlawful for a fish dealer to purchase or offload more than 100 pounds of flounder taken from the Atlantic Ocean by a vessel whose owner, or in the case of Land or Sell Licenses, the responsible party, has not first procured a valid North Carolina License to Land Flounder from the Atlantic Ocean and the vessel in use is the vessel specified on the License to Land Flounder from the Atlantic Ocean.

(3) it shall be unlawful for any person to land flounder from the Atlantic Ocean under a License to Land Flounder from the Atlantic Ocean unless that person is the holder of the license or the master designated on the license.

(4) it shall be unlawful for any individual to land flounder from the Atlantic Ocean without having ready at hand for inspection a valid License to Land Flounder from the Atlantic Ocean, except as specified in Subparagraph (1) of this Paragraph.

(d) All fish dealer transactions in flounder landed from the Atlantic Ocean shall be conducted in accordance with the Atlantic Ocean Flounder Dealer Permits in 15A NCAC 03O .0503 and permit requirements in 15A NCAC 03O .0500.

(e) It shall be unlawful to transfer flounder taken from the Atlantic Ocean from one vessel to another.

(f) Tailbag liners of any mesh size, the multiple use of two or more cod ends, or other netting material that in any way could restrict the legal size mesh shall not be used or possessed on the deck of a vessel in the Atlantic Ocean from October 1 through April 30 from the North Carolina/Virginia state line (36° 33.000' N) to Cape Lookout (34° 36.0000'N).

(g) Trawls with a cod end mesh size smaller than described in Paragraph (b) of this Rule may be used or possessed on the deck of a vessel provided not more than 100 pounds of flounder per trip from May 1 through October 31 or more than 200 pounds from November 1 through April 30 is possessed aboard or landed from that vessel.
(h) Flynets are exempt from the flounder trawl mesh requirements if they meet the following requirements:
(1) the net has large mesh in the wings that measure eight inches to 64 inches;
(2) the first body section (belly) of the net has 35 or more meshes that are at least eight inches; and
(3) the mesh decreases in size throughout the body of the net to as small as two inches or smaller towards the terminus of the net.
(i) Commercial Season:
(1) the North Carolina season for landing ocean-caught flounder shall open January 1 each year. If 80 percent of the quota allocated to North Carolina in accordance with the joint Mid-Atlantic Fishery Management Council/Atlantic States Marine Fisheries Commission Fishery Management Plan for Summer Flounder is projected to be taken, the Fisheries Director shall, by proclamation, close North Carolina ports to landing of flounder taken from the ocean.
(2) the season for landing flounder taken in the Atlantic Ocean shall reopen November 1 if any of the quota allocated to North Carolina in accordance with the joint Mid-Atlantic Fishery Management Council/Atlantic States Marine Fisheries Commission Fishery Management Plan for Summer Flounder remains. If after reopening, 100 percent of the quota allocated to North Carolina in accordance with the joint Mid-Atlantic Fishery Management Council/Atlantic States Marine Fisheries Commission Fishery Management Plan for Summer Flounder is projected to be taken prior to the end of the calendar year, the Fisheries Director shall, by proclamation, close North Carolina ports to landing of flounder taken from the ocean.
(3) during any closed season prior to November 1, vessels may land up to 100 pounds of flounder per trip taken from the Atlantic Ocean.
(j) The Fisheries Director may, by proclamation, establish trip limits for the taking of flounder from the Atlantic Ocean to assure that the individual state quota allocated to North Carolina in the joint Mid-Atlantic Fishery Management Council/Atlantic States Marine Fisheries Commission Fishery Management Plan for Summer Flounder is not exceeded.
(k) The Fisheries Director may, by proclamation, based on variability in environmental and local stock conditions, take any of the following actions in the flounder fishery:
(1) specify time;
(2) specify area;
(3) specify means and methods;
(4) specify season;
(5) specify size;
(6) specify quantity; and
(7) require submission of statistical and biological data.
(l) Possession and sale of flounder by a hatchery or flounder aquaculture operation and purchase and possession of flounder from a hatchery or flounder aquaculture operation shall be exempt from season and size limit restrictions set under Paragraph (k) of this Rule. It shall be unlawful to possess, sell, purchase, or transport such flounder unless they are in compliance with all conditions of the Aquaculture Operation Permit.

History Note: *Authority G.S. 113-134; 113-169.5; 113-182; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. March 1, 1996; February 1, 1992;
Temporary Amendment Eff. November 1, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Temporary Amendment Eff. December 23, 1996;
Amended Eff. April 1, 1997;
Temporary Amendment Eff. June 1, 1998; August 18, 1997;
Amended Eff. April 1, 1999;
Temporary Amendment Eff. May 1, 2000; July 1, 1999;
Amended Eff. April 1, 2001; August 1, 2000;
Temporary Amendment Eff. September 1, 2004;
Temporary Amendment Expired June 12, 2005;
Amended Eff. September 1, 2005;
Readopted Eff. March 15, 2023.

15A NCAC 03M .0509 TARPON

(a) It shall be unlawful to possess, sell, or offer for sale tarpon.
(b) It shall be unlawful to take tarpon by any method other than hook and line.
(c) It shall be unlawful to gaff, spear, or puncture a tarpon.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. March 17, 2021.

15A NCAC 03M .0511 BLUEFISH

History Note: *Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;*
Eff. March 1, 1994;
Amended Eff. March 1, 1996;
Temporary Amendment Eff. September 9, 1996;
Amended Eff. April 1, 1997;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. October 1, 2008; April 1, 2003; August 1, 2000;
Repealed Eff. April 1, 2022.

15A NCAC 03M .0516 COBIA

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Temporary Adoption Eff. July 1, 1999;
Eff. August 1, 2000;
Repealed Eff. April 1, 2022.

15A NCAC 03M .0519 SHAD

It shall be unlawful to take or possess American shad from the Atlantic Ocean.

History Note: *Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*
Eff. October 1, 2008;
Amended Eff. April 1, 2012;
Readopted Eff. August 23, 2022.

SUBCHAPTER 03N – FISH HABITAT AREAS

15A NCAC 03N .0104 PROHIBITED GEAR, PRIMARY NURSERY AREAS

It shall be unlawful to use any trawl net, long haul seine, swipe net, dredge, mechanical methods for clamming, or mechanical methods for oystering for the purpose of taking any marine fishes in any of the primary nursery areas described in 15A NCAC 03R .0103.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. September 1, 1991;
Recodified from 15A NCAC 3N .0004 Eff. May 1, 1997;
Amended Eff. May 1, 1997;
Readopted Eff. March 15, 2023.

15A NCAC 03N .0105 PROHIBITED GEAR, SECONDARY NURSERY AREAS

(a) It shall be unlawful to use trawl nets for any purpose in any of the permanent secondary nursery areas designated in 15A NCAC 03R .0104.
(b) It shall be unlawful to use trawl nets for any purpose in any of the special secondary nursery areas designated in 15A NCAC 03R .0105, except that the Fisheries Director, may, by proclamation, open any of the special secondary nursery areas, or any portion thereof, designated in 15A NCAC 03R .0105 to shrimp or crab trawling from August 16 through May 14 subject to the provisions of 15A NCAC 03L .0100 and .0200.

History Note: *Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. September 1, 1991;
Recodified from 15A NCAC 03N .0005 Eff. May 1, 1997;
Amended Eff. August 1, 2004; May 1, 1997;
Readopted Eff. March 15, 2023.

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

SECTION .0100 – LICENSES

15A NCAC 03O .0101 PROCEDURES AND REQUIREMENTS TO OBTAIN LICENSES, ENDORSEMENTS, AND COMMERCIAL FISHING VESSEL REGISTRATIONS

(a) Division of Marine Fisheries licenses are available at offices of the Division or by mail from the Morehead City Office of the Division, unless otherwise specified. In addition, Recreational Commercial Gear Licenses are available at license agents of the Wildlife Resources Commission in accordance with G.S. 113-270.1.

(b) For the purpose of this Rule, the procedures and requirements for the licensee shall also apply to the responsible party, the person holding power of attorney, the tournament organizer, and the vessel master.

(c) To obtain Division of Marine Fisheries licenses, endorsements, and Commercial Fishing Vessel Registrations, a licensee shall provide a completed application to an office of the Division by mail or in person. Applications submitted without complete and required information shall not be processed until all required information has been submitted. Incomplete applications shall be returned to the applicant with deficiency in the application so noted. The following shall be required for the application:

(1) full name, physical address, mailing address, date of birth, and signature of the licensee. If the licensee is not appearing before a license agent or a representative of the Division, the licensee's signature shall be notarized.

(2) a statement from the licensee that the information and supporting documentation submitted with the application is true and correct.

(3) current and valid picture identification of the licensee. Acceptable forms of picture identification are state driver's license, state identification card issued by the Division of Motor Vehicles, military identification card, resident alien card (green card), or passport; or if purchased by mail, a copy thereof.

(4) certification that the applicant does not have four or more marine or estuarine resource convictions during the previous three years.

(5) current articles of incorporation and a current list of corporate officers when purchasing a license or Commercial Fishing Vessel Registration in a corporate name. In the case of incorporation of an individual fishing vessel, the name of the vessel master shall also be specified. The licensee shall notify the Morehead City Office of the Division within five days of changing the vessel master.

(6) a current copy of a written partnership agreement shall be provided when purchasing a license, endorsement, or Commercial Fishing Vessel Registration in a partnership name, if a partnership is established.

(7) valid documentation papers or current motor boat registration, or copy thereof when purchasing a Commercial Fishing Vessel Registration. If an application for transfer of documentation is pending, a copy of the pending application and a notarized bill of sale may be submitted.

(8) affirmation of liability insurance and that the operator is knowledgeable of United States Coast Guard (USCG) safety requirements for the vessels used in the operation in accordance with G.S. 113-168.6 when purchasing a Commercial Fishing Vessel Registration with a for-hire endorsement.

(d) In addition to the requirements of Paragraph (c) of this Rule, proof of residency for non-residents shall be documented by the licensee with certification of the state of residency. Proof of residency for residents of North Carolina shall be documented by the licensee as follows:

(1) Standard or Retired Standard Commercial Fishing Licenses: A notarized certification from the applicant that the applicant is a resident of the State of North Carolina as defined by G.S. 113-130(4) and:
   (A) a notarized certification from the applicant that a North Carolina State Income Tax Return was filed for the previous calendar or tax year as a North Carolina resident;
   (B) a notarized certification that the applicant was not required to file a North Carolina State Income Tax Return for the previous calendar or tax year; or
   (C) military identification or military dependent identification, and permanent change of station orders or assignment orders substantiating the military individual's active duty assignment at a military facility in North Carolina.

(2) All other types of licenses:

(A) North Carolina voter registration card;
(B) current North Carolina Driver's License;
(C) current North Carolina Certificate of Domicile;
(D) current North Carolina Identification Card issued by the North Carolina Division of Motor Vehicles; or
(E) military identification or military dependent identification, and permanent change of station orders or assignment orders substantiating the military individual's active duty assignment at a military facility in North Carolina.

(e) In addition to the requirements in Paragraphs (c) and (d) of this Rule, the following shall be required:

(1) Blanket For-Hire Captain's CRFL: a valid certification from the USCG that allows carrying six or fewer passengers or a certification from the USCG that allows carrying more than six passengers.

(2) Blanket For-Hire Vessel CRFL or Non-Blanket For-Hire Vessel License:
(A) valid documentation papers or current motor boat registration, or copies thereof for the vessel engaged as for-hire; or
(B) a copy of the pending application and a notarized bill of sale if an application for transfer of documentation is pending.

(3) Fish Dealer License:
(A) the physical address of the established location where business is conducted and, if different, the address where records are kept; and
(B) a valid Permit and Certificate of Compliance from the Division of Marine Fisheries Shellfish Sanitation and Recreational Water Quality Section, if purchasing a Fish Dealer License with clam or oyster categories or a consolidated license.

(4) Land or Sell License:
(A) valid documentation papers or current motor boat registration, or copy thereof; or
(B) a copy of the pending application and a notarized bill of sale if an application for transfer of documentation is pending.

The fees for a Land or Sell License shall be based on the vessel's homeport as it appears on the USCG documentation papers or the state in which the vessel is registered, in accordance with G.S. 113-169.5.

(5) Ocean Fishing Pier License:
(A) the information required in G.S. 113-169.4; and
(B) linear length of the pier. A Marine Fisheries inspector's signature is required to verify the linear length of the pier before the license can be issued.

(6) Recreational Fishing Tournament License to Sell Fish: name and date or dates of the tournament.

(7) Spotter Plane License:
(A) the information required in G.S. 113-171.1;
(B) the current aircraft registration; and
(C) a list of operators.

(f) For a License to Land Flounder from the Atlantic Ocean, in addition to the requirements in Paragraphs (c) and (d) of this Rule, the following shall be applicable:

(1) for the purpose of this Paragraph, "license year" means the period beginning July 1 of a year through June 30 of the following year.

(2) to qualify for a License to Land Flounder from the Atlantic Ocean, the applicant shall:
(A) have landed in North Carolina at least 1,000 pounds of flounder from a single vessel each year from the Atlantic Ocean during any two of the 1992-93, 1993-94, 1994-95 license years for which the person had a vessel that was licensed to land in North Carolina;
(B) have been licensed under G.S. 113-152 or 113-153 during any two of the 1992-93, 1993-94, or 1994-95 license years; and
(C) hold a valid Standard or Retired Standard Commercial Fishing License or valid Land or Sell License.

(3) it shall be unlawful for a person to hold more Licenses to Land Flounder from the Atlantic Ocean than the number of vessels that the person owns that individually met the eligibility requirements of Parts (f)(2)(A) and (f)(2)(B) of this Rule.

(4) the License to Land Flounder from the Atlantic Ocean is only valid when used on the vessel specified at the time of license issuance.

(5) at the time of issuance, the applicant for the License to Land Flounder from the Atlantic Ocean shall specify the name of the vessel master for each License to Land Flounder from the Atlantic Ocean issued.

(6) the holder of the License to Land Flounder from the Atlantic Ocean shall notify the Morehead City Office of the Division of Marine Fisheries within five days of change as to the vessel master identified on the license.

(7) Licenses to Land Flounder from the Atlantic Ocean are issued for the current license year.

(g) For a Recreational Fishing Tournament License to Sell Fish, in addition to the requirements in Paragraphs (c) and (d) of this Rule, the following shall be applicable:

(1) it shall be unlawful for anyone other than the holder of the Recreational Fishing Tournament License to Sell Fish to sell fish taken during a recreational fishing tournament.

(2) fish to be sold under the Recreational Fishing Tournament License to Sell Fish shall be sold only to licensed fish dealers and shall comply with all applicable rules of the Marine Fisheries Commission or provisions of proclamations issued by the Fisheries Director as authorized by the Marine Fisheries Commission.

(3) it shall be unlawful for a licensed recreational fishing tournament organizer to fail to accurately and legibly complete a North Carolina Recreational Fishing Tournament Disposition of Proceeds from the Sale of Fish Form provided by the Division of Marine Fisheries and submit the form to the Division within 30 days after the last day of the tournament.

(h) It shall be unlawful for a license, endorsement, or Commercial Fishing Vessel Registration 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.

History Note: *Authority G.S. 113-134; 113-168; 113-168.1-6; 113-169.2-5; 113-171.1; 113-174.3; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. July 1, 1997; March 1, 1994;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. April 1, 2001;
Amended Eff. May 1, 2015; July 1, 2008; December 1, 2006; August 1, 2004; August 1, 2002;
Readopted Eff. March 15, 2023.

15A NCAC 03O .0102 PROCEDURES AND REQUIREMENTS TO RENEW LICENSES, ENDORSEMENTS, AND COMMERCIAL FISHING VESSEL REGISTRATIONS

(a) For the purpose of this Rule, the procedures and requirements for the licensee shall also apply to the responsible party, the person holding power of attorney, the tournament organizer, and the vessel master.

(b) To renew Division of Marine Fisheries licenses, endorsements, and Commercial Fishing Vessel Registrations, except Recreational Commercial Gear Licenses, a renewal application shall be submitted by the licensee. Applications submitted without complete and required information shall not be processed until all required information has been submitted. Incomplete applications shall be returned to the licensee with deficiency in the application so noted. The following is required for the renewal application:

(1) full name, physical address, mailing address, date of birth, and signature of the licensee.

(2) a statement from the licensee that the information and supporting documentation submitted with the application is true and correct.

(3) current and valid picture identification of the licensee. Acceptable forms of picture identification are state driver's license, state identification card issued by the Division of Motor Vehicles, military identification card, resident alien card (green card), or passport; or if purchased by mail, a copy thereof.

(4) the information required in Rule .0101(c)(4) through (c)(8) of this Section, if changed since last issuance of the license, endorsement, or Commercial Fishing Vessel Registration.

(5) the information required in Rule .0101(e)(1) of this Section, if the linear length of the Ocean Fishing Pier has changed.

(6) a valid Permit and Certificate of Compliance from the Division's Shellfish Sanitation and Recreational Water Quality Section, if renewing a Fish Dealer License with clam or oyster categories or a consolidated license.

(7) certification that all information on the application is true and accurate. Notarization of the signature on renewal applications shall not be required.

The Division may require current copies of documentation for licenses, endorsements, and Commercial Fishing Vessel Registrations upon renewal when necessary to verify inconsistent information or the information cannot be verified by independent sources.

History Note: *Authority G.S. 113-134; 113-168; 113-168.1-6; 113-169.2-5; 113-171.1; 113-174.3; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. March 1, 1994;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. December 1, 2006; August 1, 2000;
Readopted Eff. March 15, 2023.

15A NCAC 03O .0103 AUXILIARY VESSELS

(a) It shall be unlawful to fail to comply with Commercial Fishing Vessel Registration requirements set forth in G.S. 113-168.6 to operate a vessel used in conjunction with a commercial fishing operation.

(b) An individual in command of a vessel that is auxiliary to a vessel with a Commercial Fishing Vessel Registration with an individual aboard who holds a Standard Commercial Fishing License or a Retired Standard Commercial Fishing License engaged in a commercial fishing operation using a pound net, long haul, or beach seine is exempt from the provisions of G.S. 113-168.2 (a1).

History Note: *Authority G.S. 113-134; 113-168.1; 113-168.2; 113-168.5; 113-168.6; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. August 1, 2000;
Readopted Eff. June 1, 2022.

15A NCAC 03O .0104 COMMERCIAL UNLOADING OF FISH

It shall be unlawful to unload fish from a vessel in North Carolina that has been engaged in a commercial fishing operation outside State waters without possessing a valid:

(1) Standard or Retired Standard Commercial Fishing License with applicable endorsement;
(2) Shellfish License for North Carolina Residents without a Standard Commercial Fishing License; or
(3) Land or Sell License.

History Note: *Authority G.S. 113-134; 113-168.1; 113-168.2; 113-168.4; 113-169.5; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. August 1, 2000;
Readopted Eff. March 15, 2023.

15A NCAC 03O .0105 REQUIREMENTS FOR MUSSEL DEALERS

Persons dealing in mussels who are subject to licensing requirements under the provisions of G.S. 113-169.3 shall be required to purchase only the license applicable to clam dealers and shall be required to hold a valid Permit and Certificate of Compliance from the Division of Marine Fisheries Shellfish Sanitation and Recreational Water Quality Section, as described in Rule .0101 of this Section.

History Note: *Authority G.S. 113-134; 113-169.3; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. August 1, 2004; August 1, 2000;
Readopted Eff. June 1, 2022.

15A NCAC 03O .0107 LICENSE REPLACEMENT AND FEES

(a) A licensee shall receive a replacement for a commercial license, endorsement, Commercial Fishing Vessel Registration decal, or Recreational Commercial Gear License upon payment to the Division of Marine Fisheries a fee of ten dollars ($10.00) or a fee equal to the initial cost of the license, endorsement, or Commercial Fishing Vessel Registration, whichever is less.

(b) A licensee shall receive a replacement Coastal Recreational Fishing License or a for-hire license as defined in G.S. 113-174.3 upon payment to the Division of Marine Fisheries a fee of five dollars ($5.00).

History Note: *Authority G.S. 113-134; 113-168.1; 113-168.6; 113-169.4; 113-173; 113-174.1; 113-174.2; 113-174.3; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. December 1, 2006; August 1, 2000;
Readopted Eff. June 1, 2022.

15A NCAC 03O .0108 LICENSE AND COMMERCIAL FISHING VESSEL REGISTRATION TRANSFERS

(a) To transfer a license or Commercial Fishing Vessel Registration, the license or registration shall not be expired prior to transfer.

(b) Upon transfer of a license or Commercial Fishing Vessel Registration, the transferee becomes the licensee and assumes the privileges of holding the license or Commercial Fishing Vessel Registration.

(c) A transfer application including a certification statement form shall be provided by the Division of Marine Fisheries. A transfer application shall be completed for each transfer including, but not limited to:

(1) the information required as set forth in Rule .0101(a) of this Section;

(2) a notarized statement from the transferee listing any violations involving marine or estuarine resources in the State of North Carolina during the previous three years; and

(3) a notarized statement from the transferee that the information and supporting documentation submitted with the transfer application is true and correct, and that the transferee acknowledges that it is unlawful for a person to accept transfer of a license for which they are ineligible.

(d) A completed transfer application shall be returned to an office of the Division by mail or in person, except as set forth in Paragraph (e) of this Rule.

(e) A transfer application submitted to the Division without complete and required information shall be deemed incomplete and shall not be considered further until resubmitted with all required information. Incomplete applications shall be returned to the applicant with deficiency in the application so noted.

(f) A License to Land Flounder from the Atlantic Ocean shall only be transferred:

(1) with the transfer of the ownership of a vessel that the licensee owns that individually met the eligibility requirements of Rule .0101 (b)(1)(A) and (b)(1)(B) of this Section to the new owner of that vessel; or

(2) by the owner of a vessel to another vessel under the same ownership.

Transfer of a License to Land Flounder from the Atlantic Ocean transfers with it all flounder landings from the Atlantic Ocean associated with that vessel. Any transfer of license under this Paragraph shall only be processed through the Division of Marine Fisheries Morehead City Headquarters Office and no transfer is effective until approved and processed by the Division.

(g) Transfer of a Commercial Fishing Vessel Registration: If transferring ownership of a vessel bearing a current Commercial Fishing Vessel Registration, the new owner:

(1) shall follow the requirements in Rule .0101 of this Section and pay a replacement fee as set forth in Rule .0107 of this Section for a replacement Commercial Fishing Vessel Registration; and

(2) shall submit a transfer application with the signatures of the former owner and the new owner notarized.

(h) Transfer of a Standard or Retired Standard Commercial Fishing License:

(1) It is unlawful for a person to accept transfer of a Standard or Retired Standard Commercial Fishing License for which they are ineligible. Grandparents, grandchildren, and legal guardians of an individual are eligible to transfer a license and receive a transferred license.

(2) A Standard or Retired Standard Commercial Fishing License shall only be transferred if both the transferor and the transferee have no current suspensions or revocations of any Marine Fisheries license privileges. In the event of the death of the transferor, this requirement shall only apply to the transferee.

(3) For purposes of effecting transfers under this Paragraph:

(A) "business" shall mean corporations and limited liability companies that have been registered with the Secretary of State; and

(B) "owner" shall mean owner, shareholder, or manager of a business.

(4) At the time of the transfer of a Standard or Retired Standard Commercial Fishing License, the transferor shall indicate the retainment or transfer of the landings history associated with that Standard or Retired Standard Commercial Fishing License. The transferor may retain a landings history only if the transferor holds an additional Standard or Retired Standard Commercial Fishing License. Transfer of a landings history is all or none.

(5) To transfer a Standard or Retired Standard Commercial Fishing License, in addition to the requirements in Paragraph (c) of this Rule, the following information is required:

(A) information on the transferee as set forth in Rule .0101 of this Section;

(B) notarization of the transferor's and the transferee's signatures on the transfer application; and

(C) if the transferor is retiring from commercial fishing, evidence showing that such retirement has in fact occurred, which may include, but is not limited to, evidence of the transfer of all the transferor's Standard Commercial Fishing Licenses, sale of all the transferor's registered vessels, or discontinuation of any active involvement in commercial fishing.

(6) The Standard or Retired Standard Commercial Fishing License that is being transferred shall be surrendered to the Division at the time of the transfer application.

(7) Fees:

(A) The transferee shall pay a replacement fee as set forth in Rule .0107 of this Section.

(B) The transferee shall pay the differences in fees as specified in G.S. 113-168.2(e) or G.S. 113-168.3(b) if the transferee is a non-resident.

(C) The transferee shall pay the differences in fees as specified in G.S. 113-168.2(e) if the license to be transferred is a Retired Standard Commercial Fishing License and the transferee is less than 65 years old.

(8) Transfer of Standard or Retired Standard Commercial Fishing License for a Business:
  (A) An individual holding a Standard or Retired Standard Commercial Fishing License may transfer their license to a business in which the license holder is also an owner of the business in accordance with application requirements as set forth in Rule .0101(a) of this Section.
  (B) If a business is dissolved, the business may transfer the license or licenses of the business to an individual owner of the dissolved business. A dissolved business holding multiple licenses may transfer one license or multiple licenses to one owner or multiple owners or any combination thereof. A notarized statement showing agreement for the transfer of all owners of the business is required to complete this transaction.
  (C) If a business is sold, the business may transfer the license or licenses of the business to the successor business at the time of sale.
  (D) If an owner leaves the business, any license owned by that owner may be transferred back to themselves as an individual at the time the owner leaves the business, provided the owner was the last individual to own the license before the business owned the license. A notarized statement showing agreement for the transfer of all owners of the business is required to complete this transaction.

(9) Transfer of Standard or Retired Standard Commercial Fishing License for a Deceased Licensee:
  (A) If an immediate surviving family member of the deceased licensee is eligible to hold the deceased licensee's Standard Commercial Fishing License or Retired Standard Commercial Fishing License, the Administrator or Executor shall give written notification within six months after the Administrator or Executor qualifies under G.S. 28A to the Division of the request to transfer the deceased's license to the estate Administrator or Executor.
  (B) A transfer to the Administrator or Executor shall be made according to the provisions of Subparagraphs (2) through (4) of this Paragraph. The Administrator or Executor shall provide a copy of the deceased licensee's death certificate, a copy of the certificate of administration, and a list of eligible immediate family members to the Division.
  (C) The Administrator or Executor shall only transfer a license in the Administrator or Executor name on behalf of the estate to an eligible surviving family member. The surviving family member transferee shall only transfer the license to a third party purchaser of the deceased licensee's fishing vessel. Transfers shall be made according to the provisions of Subparagraphs (2) through (4) of this Paragraph.

History Note: *Authority G.S. 113-134; 113-168.1; 113-168.2; 113-168.3; 113-168.6; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. March 1, 1994;
Temporary Amendment Eff. August 1, 1999; July 1, 1999;
Amended Eff. August 1, 2000;
Readopted Eff. March 17, 2021.

15A NCAC 03O .0109 ASSIGNMENT OF STANDARD COMMERCIAL FISHING LICENSE

(a) For the purpose of this Rule, "licensee" shall mean the person issued a Standard Commercial Fishing License and "assignee" shall mean the individual to whom the licensee assigns a Standard Commercial Fishing License in accordance with the requirements of this Rule.

(b) The Division of Marine Fisheries shall provide assignment forms to the licensee upon request. Only Division assignment forms shall be used to obtain an assignment. On the assignment form, the licensee shall designate what, if any, endorsements are included in the assignment. Endorsements shall not be assigned independent of the Standard Commercial Fishing License. It shall be unlawful for the licensee or the assignee to fail to submit within five days the completed assignment form to any office of the Division in person or by mail to the Morehead City Office. The Morehead City Office is located at 3441 Arendell Street, Morehead City, North Carolina, 28557. If the completed assignment form is not received by the Division within five days from the date it was signed, the assignment shall be null and void. Incomplete forms shall be returned to the licensee with deficiency in the form so noted. An assignment is in effect from the date specified on the assignment form and when:
  (1) the assignment form is complete with all required information;
  (2) signatures of the current license holder and the assignee are notarized; and
  (3) the assignee has in the assignee's possession the current licensee's original actual Standard Commercial Fishing License, including applicable endorsements in accordance with G.S. 113-169.2.

(c) For an extension of time for assignments, a new assignment form shall be completed in accordance with Subparagraphs (b)(1) through (b)(3) of this Rule.

(d) Assignments shall terminate:
  (1) when the date specified on the assignment form is reached;

(2) if the licensee or assignee are determined ineligible for a license or assignment;
(3) if the Division receives a notarized statement from the current license holder stating a revised date for an earlier assignment termination;
(4) upon the licensee or assignee's death; or
(5) when the Standard Commercial Fishing License expires.

(e) It shall be unlawful for an individual assigned a Standard Commercial Fishing License when involved in a commercial fishing operation to fail to have the original actual Standard Commercial Fishing License, any assigned endorsements, and a copy of the assignment form in the individual's possession ready at hand for inspection in accordance with G.S. 113-168.1.

(f) All landings occurring during the time of the assignment shall be credited to the licensee, not the assignee.

(g) It shall be unlawful to be assigned more than a single Standard Commercial Fishing License at any one time. It shall be unlawful to assign a Standard Commercial Fishing License to more than one individual at any one time. Assignments shall only be made by the licensee and shall not be further assigned by assignees. Masters identified on the Standard Commercial Fishing Licenses of corporations consisting of an individual fishing vessel shall not assign such licenses.

(h) It shall be unlawful for a person to accept assignment of a Standard Commercial Fishing License for which they are ineligible.

(i) It shall be unlawful for any assignee of a Standard Commercial Fishing License not to return the assignment and the Standard Commercial Fishing License with any assigned endorsements to the licensee within five days of notice that the assignment has been terminated or a demand by the licensee to return the license.

History Note: *Authority G.S. 113-134; 113-135; 113-168.1; 113-168.2; 113-168.5; 113-169.2; 113-182; 113-187; 143B-289.52;*
Eff. January 1, 1991;
Temporary Amendment Eff. October 2, 1999; July 1, 1999;
Amended Eff. August 1, 2000;
Readopted Eff. March 15, 2023.

15A NCAC 03O .0110 LICENSE REFUNDS

All license fees are non-refundable except if licenses are issued by the Division of Marine Fisheries in error.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52; 147-84;*
Eff. March 1, 1995;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. August 1, 2000;
Readopted Eff. June 1, 2022.

15A NCAC 03O .0111 SURRENDER OF LICENSES

(a) It shall be unlawful for any licensee to refuse to surrender to an agent of the Secretary all licenses, license receipts, endorsements, commercial fishing vessel registration or decals, and other forms and records relating to the license following service of notice of suspension or revocation of licenses in accordance with G.S. 113-171 and Rule .0114 of this Section.

(b) It shall be unlawful for any person in custody or possession of any licenses, license receipt, endorsements, commercial fishing vessel registration or decals, and other documentation required to be surrendered to refuse to surrender same to an agent of the Secretary making such demand.

(c) A license issued by the Division in error shall be required to be surrendered immediately upon service of a notice by an agent of the Fisheries Director to surrender the license.

History Note: *Authority G.S. 113-134; 113-171; 113-182; 143B-289.52; S.L. 2010-145, s. 1;*
Temporary Adoption Eff. July 1, 1999;
Eff. August 1, 2000;
Amended Eff. October 1, 2012;
Readopted Eff. March 15, 2023.

15A NCAC 03O .0113 OCEAN FISHING PIER REPORTING REQUIREMENTS

It shall be unlawful for the responsible party of the Ocean Fishing Pier License to fail to provide to the Division of Marine Fisheries by the 10th of each month a daily count of anglers fishing from the licensed pier from the previous month, including a daily count of zero for days when anglers did not fish. The information shall be submitted on a paper form provided by the Division or via electronic mail to the electronic mail address provided at the time of license issuance.

History Note: *Authority G.S. 113-134; 113-169.4; 113-170.3; 113-174.1; 113-182; 143B-289.52;*

Eff. April 1, 2011;
Amended Eff. May 1, 2015;
Readopted Eff. March 15, 2023.

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

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

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

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

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

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

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

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

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

(e) If a license has been suspended, the former licensee shall not be eligible to apply for reissuance of license or for any additional license authorized in Article 14A, Article 14B, or Article 25A of Chapter 113 during the suspension period. Licenses shall be returned to the licensee by the Fisheries Director or the Director's agents at the end of a period of suspension.

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

History Note: *Authority G.S. 113-134; 113-168.1; 113-171; 113-182; 143B-289.52; S.L. 2010-145, s. 1;*
Eff. October 1, 2012;
Amended Eff. May 1, 2017;
Readopted Eff. March 15, 2023.

SECTION .0200 – SHELLFISH LEASES AND FRANCHISES

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

(a) 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 purposes 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 existing leases in the area, 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.

(b) 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 recognized pursuant to G.S. 113-206 shall meet the standards in G.S. 113-202.2.

(c) Franchises recognized pursuant to G.S. 113-206 and shellfish bottom leases 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 and market 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.

(d) Shellfish water column leases 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 and market 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.

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

(1) Only shellfish marketed, planted, or produced as defined in 15A NCAC 03I .0101 as the fishing activities "shellfish marketing from leases and franchises," "shellfish planting effort on leases and franchises," or "shellfish production on leases and franchises" shall be included in the shellfish lease and franchise 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. Shellfish transplanted between shellfish leases or franchises shall be credited as planting effort on only one lease or franchise.

(3) Production and marketing information and planting effort information shall be compiled and averaged separately to assess compliance with the requirements of this Rule. The shellfish lease or franchise 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 for shellfish bottom leases. The shellfish lease or franchise 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 for shellfish water column leases.

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

(A) for an initial shellfish bottom lease or franchise, 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;

(B) for a renewal shellfish bottom lease or franchise, 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.

(f) Persons holding five or more acres under all shellfish bottom leases and franchises combined shall meet the requirements established in Paragraph (c) of this Rule before submitting an application for additional shellfish lease acreage to the Division of Marine Fisheries.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-206; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. May 1, 1997; March 1, 1995; March 1, 1994; September 1, 1991;
Temporary Amendment Eff. October 1, 2001;
Amended Eff. May 1, 2017; October 1, 2008; April 1, 2003;
Readopted Eff. August 23, 2022.

15A NCAC 03O .0202 SHELLFISH LEASE APPLICATIONS

(a) Application forms are available from the Division of Marine Fisheries, 3441 Arendell Street, Morehead City, NC 28557 for persons desiring to apply for a shellfish lease. Each application shall be accompanied by a map or diagram prepared at the applicant's expense including an inset vicinity map showing the location of the proposed shellfish lease with detail sufficient to permit on-site identification pursuant to G.S. 113-202(d1).

(b) As a part of the application, the applicant shall submit a Shellfish Lease Management Plan for the area to be leased for shellfish aquaculture purposes on a form provided by the Division that shall:

(1) state the methods through which the applicant will cultivate and produce shellfish consistent with the requirements in accordance with Rule .0201 of this Section;
(2) state the time intervals during which phases of cultivation and production will be achieved;
(3) state the materials and techniques that will be utilized in management of the shellfish lease;
(4) forecast the results expected to be achieved by the Shellfish Lease Management Plan activities;
(5) describe the productivity of any other shellfish leases or franchises held by the applicant; and
(6) state the locations of each corner defining the area to be leased with no more than eight corners.

(c) The completed application, map or diagram, and Shellfish Lease Management Plan for the requested shellfish lease shall be accompanied by the non-refundable filing fee set forth in G.S. 113-202(d1), G.S. 113-202.1(c)(1), and G.S. 113-202.2(c)(1). An incomplete application shall be returned and not considered further until re-submitted complete with all required information.

(d) Applicants and transferees not currently holding a shellfish lease, and applicants and transferees holding one or more shellfish leases that are not meeting production requirements, shall complete the Shellfish Aquaculture Education Program provided by the Division. The Shellfish Aquaculture Education Program shall provide the applicant information on shellfish aquaculture including:

(1) shellfish lease application process;
(2) shellfish lease requirements and techniques;
(3) shellfish sanitation and National Shellfish Sanitation Program requirements;
(4) shellfish harvest requirements;
(5) aquaculture permits;
(6) best management practices; and
(7) shellfish lease user conflict avoidance.

(e) After an application is deemed to have met all requirements and is accepted by the Division, the applicant shall mark the area for which a shellfish lease is requested with stakes at each corner in accordance with Rule .0204(a)(1)(A) of this Section. The applicant shall attach to each stake a sign, provided by the Division containing the name of the applicant, the date the application was filed, and the estimated acres. The applicant shall be responsible for ensuring the sign remains in place until the shellfish lease application process is completed.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-206; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. April 1, 2011; September 1, 2005; May 1, 1997; September 1, 1991;
Readopted Eff. August 23, 2022.

15A NCAC 03O .0203 SHELLFISH LEASE APPLICATION PROCESSING

(a) After acceptance of a completed shellfish lease application as set forth in Rule .0202 of this Section, the proposed shellfish lease area shall be inspected by agents of the Division of Marine Fisheries. Proposed shellfish lease areas inconsistent with applicable standards contained or referenced in Rule .0201 of this Section shall result in the return of the application for amendment to remove the inconsistencies. If the boundaries of the proposed shellfish lease area are modified, the stakes identifying such areas shall be relocated

accordingly by the applicant or applicants. The failure of the applicant or applicants to amend the application or modify the shellfish lease area identification, when required, within 30 days of notification shall result in denial of the application.
(b) If the initial or amended shellfish lease application is deemed consistent with all applicable requirements, the Secretary or the Secretary's designee shall notify the applicant and publish notices of intention to lease in accordance with the standards in G.S. 113-202(f).
(c) The Secretary shall consider the shellfish lease application, the Division's proposed lease area analysis, and public comments, and may in the Secretary's discretion lease or decline to lease the proposed lease area or any part thereof. Special conditions may be imposed so that shellfish leases may be issued that would otherwise be denied. Should an applicant decide not to accept any special condition imposed on the shellfish lease by the Secretary, the application shall be considered denied.
(d) After approval of a shellfish lease by the Secretary, the applicant or applicants shall mark the lease in accordance with Rule .0204 of this Section within 30 days of approval.
(e) Proposed shellfish bottom lease areas remain public bottom until a lease contract has been executed by the Secretary.
(f) Proposed shellfish water column lease areas superjacent to bottom leases and franchises remain public water until a lease contract has been executed by the Secretary.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-206; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. October 1, 2008; March 1, 1994; September 1, 1991;
Readopted Eff. June 1, 2022.

15A NCAC 03O .0204 MARKING SHELLFISH LEASES AND FRANCHISES
(a) All shellfish leases and franchises shall be marked by the lease or franchise holder as follows:
(1) Shellfish bottom leases and franchises shall be marked by:
(A) stakes of wood or plastic material no less than three inches in diameter and no more than 12 inches in diameter at the mean high water mark and extending at least four feet above the mean high water mark for each corner, except stakes more than 12 inches in diameter approved as part of a Coastal Area Management Act Permit issued in accordance with G.S. 113A-118 and G.S. 113-229 shall be allowed. The stakes shall be firmly jetted or driven into the bottom at each corner as identified in Rule .0202(b)(6) of this Section.
(B) signs displaying the number of the shellfish lease or franchise and the name of the lease or franchise holder printed in letters at least three inches high shall be firmly attached to each corner stake.
(C) yellow light reflective tape or yellow light reflective devices on each corner stake. The yellow light reflective tape or yellow light reflective devices shall be affixed to each corner stake, shall cover a vertical distance of not less than 12 inches, and shall be visible from all directions.
(D) supplementary stakes of wood or plastic material no less than three inches in diameter and no more than four inches in diameter, not farther apart than 150 feet or closer together than 50 feet and extending at least four feet above the mean high water mark, shall be placed along each boundary, except if doing so interferes with the use of traditional navigation channels.
(2) Shellfish water column leases shall be marked at each corner of the area by signs giving notice and providing caution in addition to the required signs as identified and approved by the Secretary in the Shellfish Lease Management Plan as set forth in Rule .0202 of this Section.
(b) Stakes marking areas of management within shellfish bottom leases or franchises, as approved in the Shellfish Lease Management Plan, shall conform to Part (a)(1)(D) of this Rule and may not exceed one for each 1,200 square feet. Marking at concentrations of stakes greater than one for each 1,200 square feet constitutes use of the water column and a shellfish water column lease is required in accordance with G.S. 113-202.1 or G.S. 113-202.2.
(c) All areas claimed in filings made pursuant to G.S. 113-205 as deeded bottoms through oyster grants issued by the county clerk of court or as private bottoms through perpetual franchises issued by the Shellfish Commission shall be marked in accordance with Paragraph (a) of this Rule, except the sign shall include the number of the franchise rather than the number of the shellfish lease. However, claimed areas not being managed and cultivated shall not be marked.
(d) It shall be unlawful to exclude or attempt to exclude the public from allowable public trust use of navigable waters on shellfish leases and franchises including fishing, hunting, swimming, wading, and navigation.
(e) The Division has no duty to protect any shellfish lease or franchise not marked in accordance with Paragraph (a) of this Rule.

History Note: *Authority G.S. 76-40; 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-205; 113-206; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. September 1, 1997; March 1, 1994; October 1, 1992; September 1, 1991;
Readopted Eff. August 23, 2022.

15A NCAC 03O .0205 SHELLFISH LEASE RENEWAL

(a) Shellfish lease renewal applications shall be provided to lease holders by the Division of Marine Fisheries as follows:

(1) for a shellfish bottom lease, a renewal application shall be provided in January of the year of expiration.

(2) for a shellfish water column lease, a renewal application shall be provided at least 90 days prior to the expiration date.

(b) A shellfish lease renewal application shall be accompanied by a Shellfish Lease Management Plan that meets the requirements of Rule .0202 of this Section. The non-refundable filing fee set forth in G.S. 113-202(j) shall accompany each renewal application for a shellfish bottom lease.

(c) To be eligible to renew a shellfish lease, persons holding any acres under a shellfish lease or franchise shall meet the requirements established in Rules .0201 and .0204 of this Section and 15A NCAC 03O .0503(a).

(d) If it is determined, after due notice to the shellfish lease holder and after opportunity for the lease holder to be heard, that the lease holder has not complied with the requirements of this Section or that the lease as issued is inconsistent with this Section, the Secretary may decline to renew, at the end of the current terms, any lease. The shellfish lease holder may appeal the Secretary's decision by filing a petition for a contested case under G.S. 150B-23.

(e) Pursuant to G.S. 113-202(a)(6), the Secretary is not authorized to approve renewal of a shellfish lease in an area designated as polluted by a proclamation issued by the Fisheries Director. Excluded from this requirement are shellfish leases located in conditionally approved waters that have been temporarily closed when the conditions of the written management plan are not met as described in 15A NCAC 18A .0905. Shellfish leases partially closed due to pollution shall be amended to exclude the area closed to shellfish harvest prior to renewal.

(f) If the Secretary declines to renew a shellfish lease that has been determined to be inconsistent with the standards of this Section, the Secretary, with the agreement of the lease holder, may issue a renewal lease for all or part of the area previously leased to the lease holder that contains conditions necessary to conform the renewal lease to the requirements of this Section for new leases.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-206; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. September 1, 2005; May 1, 1997; March 1, 1995; March 1, 1994; October 1, 1992; September 1, 1991;
Readopted Eff. June 1, 2022.

15A NCAC 03O .0206 SHELLFISH LEASE APPLICATION: REQUEST FOR REVIEW

(a) Any member of the public shall be allowed an opportunity to comment on any shellfish lease application during the public comment period and subsequent public hearing at which the lease application is being considered by the Secretary as set forth in G.S. 113-202.

(b) Procedures for how an applicant or a person other than the applicant who is aggrieved may proceed with a contested case based on dissatisfaction of the Secretary's decision on a shellfish lease application are provided in G.S. 113-202(g). Additionally, a person other than the applicant who is aggrieved may submit a request for a determination of the appropriateness of a contested case hearing. The request and any supporting documentation for the basis of the aggrieved person seeking to commence a contested case shall be submitted within 30 days after the disputed decision is made to the Shellfish Cultivation Lease Review Committee and addressed to the Marine Fisheries Commission Office, Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557. The request shall be submitted on a form provided by the Division.

(c) The Shellfish Cultivation Lease Review Committee shall notify the aggrieved person of the date of the public meeting for the Committee to consider the request no later than seven calendar days before the date of the public meeting.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-289.52; 143B-289.57;*
Eff. January 1, 1991;
Amended Eff. March 1, 1994; September 1, 1991;
Readopted Eff. June 1, 2022.

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.

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

Eff. January 1, 1991;
Amended Eff. September 1, 1991;
Readopted Eff. June 1, 2022.

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. 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.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-205; 113-206; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. May 1, 1997; March 1, 1995; March 1, 1994; October 1, 1992; September 1, 1991;
Temporary Amendment Eff. January 1, 2002; October 1, 2001;
Amended Eff. May 1, 2017; April 1, 2003;
Readopted Eff. June 1, 2022.

15A NCAC 03O .0209 ASSIGNMENT OF SHELLFISH LEASES AND FRANCHISES

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

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

(b) No transfer or sublease of a shellfish lease or franchise, in whole or in part, shall be valid until notice is provided to the Division of Marine Fisheries as provided in Article 16 of Chapter 113 of the North Carolina General Statutes.

(c) Notice to transfer or sublease a shellfish lease or franchise shall include:

(1) shellfish lease or franchise number;
(2) date of transfer or sublease;
(3) name and city of shellfish lease or franchise holder;
(4) name and address of transferee or sub-lessee;
(5) waterbody and county of shellfish lease or franchise being transferred or subleased;
(6) area description and total acres of shellfish lease or franchise or portion of shellfish lease or franchise being transferred or subleased; and
(7) end date for a sublease.

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

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

(e) A shellfish water column lease shall only be transferred in accordance with G.S. 113-202.1(f) and G.S. 113-202.2(f).

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

Eff. January 1, 1991;
Amended Eff. April 1, 2011; March 1, 1994; September 1, 1991;
Readopted Eff. July 1, 2022.

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

(a) Shellfish Management Plans, prepared in accordance with the standards 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.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.2; 113-205; 113-206; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. October 1, 2008; September 1, 1991;
Readopted Eff. June 1, 2022.

15A NCAC 03O .0211 FISHING GEAR REQUIREMENTS FOR SHELLFISH LEASES AND FRANCHISES

(a) It shall be unlawful to use any trawl net, long haul seine, swipe net, dredge, or mechanical method for shellfish on any shellfish lease or franchise except:
(1) for a holder of a Permit to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises; or
(2) for the purpose of placing and retrieving cages, bags, or other aquaculture gear within any shellfish lease or franchise.
(b) Permits to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises shall be issued by the Division of Marine Fisheries in compliance with 15A NCAC 03O .0500.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 113-206; 143B-289.52;*
Eff. October 1, 1992;
Amended Eff. August 1, 1998;
Readopted Eff. March 15, 2023.

SECTION .0300 – RECREATIONAL COMMERCIAL GEAR LICENSES

15A NCAC 03O .0301 ELIGIBILITY FOR RECREATIONAL COMMERCIAL GEAR LICENSES

Recreational Commercial Gear Licenses shall only be issued to individuals.

History Note: *Authority G.S. 113-134; 113-173; 113-182; 143B-289.52;*
Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Eff. February 1, 1995;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. August 1, 2000;
Readopted Eff. March 15, 2023.

15A NCAC 03O .0302 AUTHORIZED GEAR FOR RECREATIONAL COMMERCIAL GEAR LICENSES

(a) The following are the only commercial fishing gear authorized (including restrictions) for use under a valid Recreational Commercial Gear License:
(1) one seine 30 feet or over in length but not greater than 100 feet with a mesh length less than two and one-half inches when deployed or retrieved without the use of a vessel or any other mechanical methods. A vessel may be used only to transport the seine;
(2) one shrimp trawl with a headrope not exceeding 26 feet in length per vessel;
(3) with or without a vessel, five eel, fish, shrimp, or crab pots in any combination, except only two pots of the five may be eel pots. Peeler pots are not authorized for recreational purposes;
(4) one multiple hook or multiple bait trotline up to 100 feet in length;
(5) gill nets:

(A) not more than 100 yards of gill nets with a mesh length equal to or greater than two and one-half inches except as provided in Part (C) of this Subparagraph. Attendance shall be required at all times;

(B) not more than 100 yards of gill nets with a mesh length equal to or greater than five and one-half inches except as provided in Part (C) of this Subparagraph. Attendance shall be required when used from one hour after sunrise through one hour before sunset in Internal Waters east and north of the Highway 58 Bridge at Emerald Isle and in the Atlantic Ocean east and north of 77° 04.0000' W. Attendance shall be required at all times in Internal Waters west and south of the Highway 58 Bridge at Emerald Isle and in the Atlantic Ocean west and south of 77° 04.0000' W;

(C) not more than 100 yards of gill net may be used at any one time, except that when two or more Recreational Commercial Gear License holders are on board a vessel, a maximum of 200 yards may be used from a vessel; and

(D) it shall be unlawful to possess on board a vessel more than 100 yards of gill nets with a mesh length less than five and one-half inches and more than 100 yards of gill nets with a mesh length equal to or greater than five and one-half inches identified as recreational commercial fishing equipment when only one Recreational Commercial Gear License holder is on board a vessel. It shall be unlawful to possess on board a vessel more than 200 yards of gill nets with a mesh length less than five and one-half inches and more than 200 yards of gill nets with a mesh length equal to or greater than five and one-half inches identified as recreational commercial fishing equipment when two or more Recreational Commercial Gear License holders are on board a vessel;

(6) one hand-operated device generating pulsating electrical current for the taking of catfish in the area described in 15A NCAC 03J .0304;

(7) skimmer trawls not exceeding 26 feet in total combined width; and

(8) one pound net used to take shrimp with each lead 10 feet or less in length and with a minimum lead net mesh of one and one-half inches, and enclosures constructed of net mesh of one and one-fourth inches or greater and with all dimensions being 36 inches or less. Attendance shall be required at all times and all gear shall be removed from the water when not being fished. Gear is to be marked and set as specified in 15A NCAC 03J .0501.

(b) It shall be unlawful to use more than the quantity of authorized gear specified in Paragraph (a) of this Rule, regardless of the number of individuals on board a vessel possessing a valid Recreational Commercial Gear License.

(c) It shall be unlawful for an individual to violate the restrictions of or use gear other than that authorized by Paragraph (a) of this Rule.

(d) Unless otherwise provided, this Rule does not exempt Recreational Commercial Gear License holders from the provisions of other applicable rules of the Marine Fisheries Commission or provisions of proclamations issued by the Fisheries Director as authorized by the Marine Fisheries Commission.

History Note: *Authority G.S. 113-134; 113-173; 113-182; 143B-289.52;*
Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Eff. February 1, 1995;
Temporary Amendment Eff. August 1, 1999; July 1, 1999;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. August 1, 2000;
Amended Eff. April 1, 2009; July 1, 2006; November 1, 2005; August 1, 2002;
Readopted Eff. March 15, 2023.

15A NCAC 03O .0303 POSSESSION LIMITS FOR RECREATIONAL COMMERCIAL GEAR LICENSES

(a) It shall be unlawful to possess more than a single recreational possession limit when only one individual on board a vessel possesses a valid Recreational Commercial Gear License, regardless of the number of Recreational Commercial Gear Licenses an individual holds, and recreational commercial fishing equipment as described in Rule .0302(a) of this Section is used, regardless of the number of individuals on board a vessel.

(b) It shall be unlawful to possess individual recreational possession limits in excess of the number of individuals on board a vessel holding a valid Recreational Commercial Gear License except as provided in Paragraph (f) of this Rule.

(c) It shall be unlawful for any individual who holds both a Recreational Commercial Gear License and a Standard or Retired Standard Commercial Fishing License and who is in possession of identified recreational commercial fishing equipment as described in Rule .0302(a) of this Section to exceed the single recreational possession limit.

(d) It shall be unlawful for individuals on board a vessel collectively holding only one Recreational Commercial Gear License and any Standard Commercial Fishing License or Retired Standard Commercial Fishing License and who are in possession of any identified

recreational commercial fishing equipment as described in Rule .0302(a) of this Section to exceed the single recreational possession limit.
(e) It shall be unlawful to possess more than 48 quarts, heads on, or 30 quarts, heads off, of shrimp when only one individual on board a vessel possesses a valid Recreational Commercial Gear License, regardless of the number of Recreational Commercial Gear Licenses an individual holds, and recreational commercial fishing equipment as described in Rule .0302(a) of this Section is used.
(f) It shall be unlawful to possess more than 96 quarts, heads on, or 60 quarts, heads off, of shrimp if more than one individual on board a vessel possesses a valid Recreational Commercial Gear License and recreational commercial fishing equipment as described in Rule .0302(a) of this Section is used.

History Note: *Authority G.S. 113-134; 113-170.4; 113-173; 113-182; 143B-289.52;*
Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Eff. February 1, 1995;
Temporary Amendment Eff. June 7, 1998;
Amended Eff. April 1, 1999;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. July 1, 2006; August 1, 2000;
Readopted Eff. March 15, 2023.

SECTION .0400 – STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY

15A NCAC 03O .0401 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY BOARD

(a) The Chair of the Marine Fisheries Commission, the Secretary of the Department of Environmental Quality, and the Fisheries Director may each name a designee and an alternate designee to serve on the Standard Commercial Fishing License Eligibility Board as their representative in their absence.
(b) The Standard Commercial Fishing License Eligibility Board shall not review an application for eligibility without a quorum of the Eligibility Board members or designees being present. Two or more members of the Standard Commercial Fishing License Eligibility Board or their designees constitute a quorum.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52; S.L. 1998-225, s. 4.24;*
Temporary Adoption Eff. April 1, 1999;
Eff. August 1, 2000;
Readopted Eff. June 1, 2022.

15A NCAC 03O .0402 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY APPLICATION PROCESS

(a) Application forms for determination of eligibility for the Standard Commercial Fishing License Eligibility Pool are available at all offices of the Division of Marine Fisheries and online at https://deq.nc.gov/about/divisions/marine-fisheries/licenses-permits-and-leases/commercial-fishing-licenses/eligibility-pool and shall be submitted to any Office of the Division for processing.
(b) Only one application per individual for determination of eligibility for the Standard Commercial Fishing License Eligibility Pool shall be accepted or may be pending at any one time. An applicant may have only one entry in the Standard Commercial Fishing License Eligibility Pool at any one time.
(c) Individuals who currently hold or are eligible to purchase a Standard or Retired Standard Commercial Fishing License shall not be eligible to apply for additional Standard Commercial Fishing Licenses through the Standard Commercial Fishing License Eligibility Pool.
(d) If an applicant has died or becomes ineligible and is subsequently selected from the Standard Commercial Fishing License Eligibility Pool, that license eligibility shall automatically revert to the Eligibility Pool.
(e) Persons claiming retirement from commercial fishing or transferring their Standard Commercial Fishing License shall not be eligible to apply for a Standard Commercial Fishing License through the Standard Commercial Fishing License Eligibility Pool for two years from the date of the last transfer, except as provided in Rule .0404(3) of this Section.
(f) Applicants shall notify the Division within 30 days of a change of address.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52; S.L. 1998-225, s. 4:24;*
Temporary Adoption Eff. April 1, 1999;
Eff. August 1, 2000;
Amended Eff. October 1, 2008; February 1, 2008;
Readopted Eff. June 1, 2022.

15A NCAC 03O .0403 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY BOARD REVIEW

(a) After determination of eligibility by the Standard Commercial Fishing License Eligibility Board, applicants will be notified in writing as to the applicant meeting or not meeting required eligibility criteria for the Standard Commercial Fishing License Eligibility Pool.

(b) The Marine Fisheries Commission shall determine the number of licenses available from the Standard Commercial Fishing License Eligibility Pool at its first regularly scheduled meeting following July 1 of each year.

(c) The Standard Commercial Fishing License Eligibility Board shall meet to review applications as often as deemed necessary by the Chair of the Eligibility Board.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52; S.L. 1998-225, s. 4.24;*
Temporary Adoption Eff. April 1, 1999;
Eff. August 1, 2000;
Amended Eff. February 1, 2008;
Readopted Eff. June 1, 2022.

15A NCAC 03O .0404 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY CRITERIA

In determining eligibility of an applicant for the Standard Commercial Fishing License Eligibility Pool, the Standard Commercial Fishing License Eligibility Board shall apply the following criteria:

(1) involvement in commercial fishing:
  (a) significant involvement in the commercial fishing industry for three of the last five years;
  (b) significant involvement in commercial fishing or in the commercial fishing industry prior to the last five years;
  (c) in the case of an applicant who is under 16 years of age, significant involvement in commercial fishing for two out of the last five years with a parent, legal guardian, grandparent, or other adult; or
  (d) significant involvement of the applicant's family in commercial fishing. For the purpose of this Sub-Item, family shall include mother, father, brothers, sisters, spouse, children, grandparents, or legal guardian.

  For the purposes of this Rule, "significant involvement" shall mean persons or corporations who are engaged in the actual taking of fish for sale, from the waters of the State, or other states, jurisdictions, or federal waters, or any licensed dealer or the dealer's employees who purchase fish at the point of landing. Significant involvement does not include activities such as those who transport fish from the point of landing, those who sell or make commercial or recreational fishing gear, those who operate bait and tackle shops unless they are engaged in the actual taking of bait for sale, or those who work in fish markets or crab picking operations;

(2) compliance with applicable laws, regulations, and rules:
  (a) the applicant shall not have any licenses, endorsements, or Commercial Fishing Vessel Registrations issued by the Division of Marine Fisheries or the right to hold them under suspension or revocation at the time of application or during the eligibility review;
  (b) if selected for the Standard Commercial Fishing License Eligibility Pool, the applicant shall become ineligible for the Standard Commercial Fishing License Eligibility Pool if any licenses, endorsements, or Commercial Fishing Vessel Registrations or the right to hold them issued by the Division are suspended or revoked;
  (c) four convictions within the last three years or the number of convictions that would cause suspension or revocation of licenses, endorsements, or Commercial Fishing Vessel Registrations as set forth in Rule .0114 of this Subchapter within the last three years shall result in the application being denied. An applicant for the Standard Commercial Fishing License Eligibility Pool shall provide certification that the applicant does not have four or more marine or estuarine resource convictions during the previous three years, as set forth in Rule .0101 of this Subchapter; and
  (d) a record of habitual violations evidenced by eight or more convictions in the last 10 years shall result in the application being denied.

  For purposes of eligibility for the Standard Commercial Fishing License Eligibility Pool, the term convictions shall include any conviction for violation of any provision of Chapter 113 of the North Carolina General Statutes and any rule implementing or authorized by such statutes, any conviction for violation of G.S. 76-40 and any rule implementing or authorized by such statute, any conviction of Chapter 75A of the North Carolina General Statutes and any rule implementing or authorized by such statutes, any conviction for violation of any provision of Article 7 of Chapter 143B of the North Carolina General Statutes and any rule implementing or authorized by such statutes, any conviction of resist, obstruct, or delay involving a Marine Fisheries Inspector or Wildlife Protector under G.S. 14-223, and any

conviction involving assaultive behavior toward a Marine Fisheries Inspector or other governmental official of the Department of Environmental Quality or the Wildlife Resources Commission;

(3) the applicant shall not have transferred a Standard Commercial Fishing License granted by the Standard Commercial Fishing License Eligibility Board; and

(4) an applicant for the Standard Commercial Fishing License Eligibility Pool shall meet all other statutory eligibility requirements for a Standard Commercial Fishing License.

History Note: *Authority G.S. 113-134; 113-168.1; 113-168.2; 113-182; 143B-289.52; S.L. 1998-225, s. 4.24;*
Temporary Adoption Eff. April 1, 1999;
Eff. August 1, 2000;
Amended Eff. October 1, 2008; February 1, 2008;
Readopted Eff. June 1, 2022.

15A NCAC 03O .0405 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY POOL APPLICATION DOCUMENTATION

(a) The Standard Commercial Fishing License Eligibility Pool application form required by Rule .0402 of this Section to be submitted to the Division of Marine Fisheries shall include the following items for the applicant:

(1) participant identification number;
(2) full name;
(3) if applying as a business:
  (A) business name;
  (B) state of incorporation;
  (C) charter state;
  (D) full name of business owner;
  (E) full names of business agents, if applicable; and
  (F) type of business entity, either corporation, partnership, sole proprietorship, or limited liability company;
(4) type of picture identification used to verify the applicant's identify, either state driver's license, state identification card issued by the Division of Motor Vehicles, military identification card, resident alien card, or passport, and identification number and identification expiration date;
(5) date of birth;
(6) state of primary residence;
(7) e-mail address, if applicable;
(8) physical address;
(9) mailing address;
(10) home phone number, business phone number, fax number, and cellular phone number, if applicable; and
(11) race, gender, height, weight, eye color, and hair color.

If applying as a business, the business agent's information is required for Subparagraphs (a)(2) and (a)(4) through (a)(11) of this Rule.

(b) Documentation for applications for determination of eligibility for the Standard Commercial Fishing License Eligibility Pool shall include:

(1) statements from individuals verifying the applicant's involvement in commercial fishing or the commercial fishing industry, which shall contain the individual's name, address, and telephone number, and the individual's signature shall be notarized;
(2) proof of income derived from commercial fishing or the commercial fishing industry. Proof of this income shall be tax records; and
(3) the extent to which the applicant has complied with federal and state laws, regulations, and rules relating to coastal fishing and protection of the environment. Federal compliance will be verified by a notarized statement from the applicant that the applicant has complied with federal laws, as set forth in Rule .0101 of this Subchapter.

(c) All documents required by this Rule shall be notarized.

(d) Applications shall be legible and complete or they will be returned.

(e) It shall be unlawful to submit false statements on applications or supporting documents. If eligibility is based on false information provided by the applicant, this eligibility shall be automatically revoked.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52; S.L. 1998-225, s. 4.24;*
Temporary Adoption Eff. April 1, 1999;
Eff. August 1, 2000;
Readopted Eff. March 15, 2023.

15A NCAC 03O .0406 STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY POOL CERTIFICATION

Annual certification to maintain an eligible application in the Standard Commercial Fishing License Eligibility Pool shall be as follows:

(1) the applicant shall certify that the information on the applicant's original application is correct and that the applicant desires to remain in the Standard Commercial Fishing License Eligibility Pool. A certification form shall be provided and mailed to the applicant at the last known address by the Division of Marine Fisheries;

(2) the certification form with any changes, such as address, phone number, or updated fisheries involvement information since the last application or certification, shall be notarized and submitted to the Division within 12 months of the initial application and annually thereafter; and

(3) failure to return certification that an application is correct or with changes within 30 days from when the Division mailed the form to the applicant shall result in the application being removed from the Standard Commercial Fishing License Eligibility Pool. An applicant that has been removed from the Standard Commercial Fishing License Eligibility Pool shall receive a notice from the Division.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52; S.L. 1998-225, s. 4.24;*
Temporary Adoption Eff. April 1, 1999;
Eff. August 1, 2000;
Readopted Eff. June 1, 2022.

SECTION .0500 – PERMITS

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.

(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.

History Note: *Authority G.S. 113-134; 113-169.1; 113-170.2; 113-170.3; 113-182; 113-210; 143B-289.52;*
Temporary Adoption Eff. May 1, 2000;
Eff. April 1, 2001;
Amended Eff. April 1, 2009; September 1, 2005;
Readopted Eff. March 15, 2023.

15A NCAC 03O .0504 SUSPENSION AND REVOCATION OF PERMITS

(a) All commercial and recreational permits issued under Article 14A, Article 14B, and Article 25A of Chapter 113, and rules of the Marine Fisheries Commission shall be subject to suspension and revocation. For the purpose of this Rule and in accordance with G.S. 150B-2, "permit" includes "certification" and "certificate of compliance".

(b) If a license is required to hold a permit:

(1) all permits shall be suspended or revoked if the permittee's license privilege has been suspended or revoked as set forth in G.S. 113-171 and Rule .0114 of this Subchapter. The duration of the permit suspension or revocation shall be the same as the license suspension or revocation.

(2) in the event a person makes application for a new permit during any period of license or permit suspension, no new permit shall be issued during the suspension period.

(3) in the case of revocation of license privileges, the former licensee shall not be eligible to apply for reinstatement of a revoked permit while license privileges are revoked.

(c) If a license is not required to hold a permit, in the case of revocation of a permit, the former permittee shall not be eligible to apply for reinstatement of a revoked permit for a period of six months.

(d) It shall be unlawful to violate any permit condition. For violation of permit conditions as specified on the permit, permits may be suspended or revoked according to the following schedule:

(1) violation of one permit condition in a three-year period, permit shall be suspended for 10 days.

(2) violation of two permit conditions in a three-year period, permits shall be suspended for 30 days.

(3) violation of three permit conditions in a three-year period, permits shall be revoked for a period not less than six months.

(4) violation of any permit conditions as set forth in 15A NCAC 03J .0505(a), permits may be revoked and the former permittee may not be eligible to apply for any future Pound Net Set Permits.

If several permit conditions are violated as a result of a single transaction or occurrence, the permit violations shall be treated as a single violation for the purpose of suspension or revocation.

(e) Permit designees shall not be permitted to participate in a permit operation during any period they are under license suspension or revocation.

(f) If violation of permit conditions requires suspension or revocation of a permit, the Fisheries Director shall cause the permittee to be served with written notice of the intent to commence suspension or revocation. If the permittee is not an individual, the written notice shall be served upon any responsible individual affiliated with the corporation, partnership, or association. The notice of the intent to commence suspension or revocation shall be served by an inspector or other agent of the Department or by certified mail, and shall state the grounds upon which it is based.

(g) The Fisheries Director shall order summary suspension of a permit if he or she finds that the public health, safety, or welfare requires emergency action. Upon such determination, the Fisheries Director shall issue an order giving the reasons for the emergency action. The effective date of the order shall be the date specified on the order or the date of service of a certified copy of the order at the last known address of the permittee, whichever is later.

(h) Upon service of a notice of suspension or revocation of a permit, it shall be unlawful to fail to surrender any permit so suspended or revoked.

(i) It shall be unlawful to fail to surrender a permit issued by the Division in error immediately upon service of a notice by an agent of the Fisheries Director to surrender the permit.

(j) It shall be unlawful to fail to remove all gear, markers, and devices associated with an Aquaculture Operation Permit within 30 days after expiration of the Aquaculture Operation Permit, termination of a shellfish lease for which the Aquaculture Operation Permit was issued, or notice by the Fisheries Director that an existing Aquaculture Operation Permit has been revoked or denied. Similar requirements for gear removal for a Pound Net Set Permit are described in 15A NCAC 03J .0505.

History Note: *Authority G.S. 113-134; 113-171; 113-182; 113-202; 113-221.2; 143B-289.52; 150B-3; S.L. 2010-145;*
Temporary Adoption Eff. May 1, 2000;
Eff. April 1, 2001;

Readopted Eff. March 15, 2023.

SUBCHAPTER 03P - ADMINISTRATIVE PROCEDURES

SECTION .0100 - HEARING PROCEDURES

15A NCAC 03P .0101 LICENSE, PERMIT, OR CERTIFICATE DENIAL: REQUEST FOR REVIEW

(a) Except in cases where summary suspension is applicable, before the Division of Marine Fisheries may commence proceedings for suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of a license, notice shall be given to the license holder that the license holder may file a petition for a contested case in accordance with G.S. 113-171(e) and may request a final agency decision in accordance with G.S. 113-171(f).

(b) For the purpose of this Rule and in accordance with G.S. 150B-2, "permit" includes "certification" and "certificate of compliance."

(c) Except in cases where G.S. 113-171, 15A NCAC 03O .0114, or summary suspension is applicable, before the Division may commence proceedings for suspension, revocation, annulment, withdrawal, recall, cancellation, or amendment of a permit, notice shall be given to the permittee that the permittee:

(1) may request an opportunity to show compliance with all requirements for retention of the permit by submitting a statement in writing to the personnel designated in the notice to commence proceedings; and

(2) has the right, through filing a request for a contested case hearing in the Office of Administrative Hearings, to a hearing before an administrative law judge.

(d) For a permit related to endangered or threatened species or a species managed by a quota, any statements submitted by the permittee to show compliance with all requirements for retention of the permit shall be postmarked or emailed within five days of receipt of the notice to commence proceedings. For all other permits, any statements submitted by the permittee to show compliance with all requirements for retention of the permit shall be postmarked or emailed within 10 days of receipt of the notice to commence proceedings. Statements and any supporting documentation shall be addressed to the personnel designated in the notice and if mailed, sent to the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557, or if emailed, sent to the email address provided in the notice for the designated personnel.

(e) Upon receipt of a statement and any supporting documentation from the permittee, the Division shall review the statement and, within 10 days, shall notify the permittee in writing with the Division's determination whether the permittee demonstrated compliance with all requirements for retention of the permit. In making this determination, the Division may consider changes the permittee made enabling the permittee to conduct the operations for which the permit is held in accordance with all applicable laws and rules, and processing errors made by the Division.

History Note: *Authority G.S. 113-134; 113-171; 113-182; 113-221.2; 143B-289.52; 150B-3; 150B-23;*
Eff. January 1, 1991;
Amended Eff. May 1, 2017; August 1, 1999;
Readopted Eff. June 1, 2022.

15A NCAC 03P .0102 CONTESTED CASE HEARING PROCEDURES

Contested case hearings shall be held in accordance with Article 3 of Chapter 150B of the General Statutes.

History Note: *Authority G.S. 113-131; 113-134; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. August 1, 1999;
Readopted Eff. June 1, 2022.

SECTION .0200 - DECLARATORY RULINGS

15A NCAC 03P .0201 DECLARATORY RULINGS: GENERALLY

At the request of any person aggrieved, as defined in G.S. 150B-2(6), the Marine Fisheries Commission may issue a declaratory ruling as provided in G.S. 150B-4 and rules of this Section.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52; 150B-4;*
Eff. April 1, 1999;
Readopted Eff. June 1, 2022.

15A NCAC 03P .0202 PROCEDURE FOR REQUESTING DECLARATORY RULINGS

(a) All requests for a declaratory ruling shall be submitted in writing to the Marine Fisheries Commission Chair and addressed to the Marine Fisheries Commission Office, Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557.

(b) All requests shall include the following:

(1) the petitioner's name and address;

(2) the rule, statute, or order upon which a ruling is desired;

(3) a statement as to whether the request is for a ruling on:

(A) the validity of a rule;

(B) the applicability of a rule, order, or statute to a given factual situation; or

(C) a conflict or inconsistency within the Commission or the Department of Environmental Quality regarding interpretation of a law or rule adopted by the Commission;

(4) arguments or data that demonstrate the petitioner is aggrieved by the rule or statute or its potential application to the petitioner;

(5) a statement of the consequences of a failure to issue a declaratory ruling in favor of the petitioner;

(6) a draft of the proposed ruling; and

(7) a statement of whether an oral argument is desired, and, if so, the reasons for requesting such an oral argument.

(c) A request for a ruling on the validity of a Commission rule shall state the petitioner's reasons for questioning the validity of the rule and a brief or legal memorandum supporting the petitioner's position. A request for a ruling on the applicability of a rule, order, or statute shall include a statement of the specific facts to a given factual situation and documentation supporting those facts. A request for a ruling to resolve a conflict or inconsistency within the Commission or the Department regarding interpretation of a law or rule adopted by the Commission shall include a written description identifying the conflict or inconsistency, the interpretation provided by the agency, and the law or rule in question. A person may ask for multiple types of declaratory rulings in a single request.

(d) In the manner provided in G.S. 150B-23(d), any other person may request to intervene in the request for declaratory ruling. The request to intervene shall be determined by the Commission Chair.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52; 150B-4;*
Eff. April 1, 1999;
Readopted Eff. June 1, 2022.

15A NCAC 03P .0203 DISPOSITION OF REQUESTS FOR DECLARATORY RULING

(a) The Marine Fisheries Commission Chair shall make a determination on the completeness of a request for declaratory ruling based on the requirements of this Section.

(b) Before the Commission decides the merits of the request, the Commission Chair may:

(1) request additional written submissions from the petitioner;

(2) allow the petitioner to file a reply to the response submitted in accordance with Subparagraph (1) of this Paragraph; and

(3) request oral arguments from the petitioner or the petitioner's legal counsel.

(c) Unless the Division of Marine Fisheries waives the opportunity to be heard, it shall be a party to any request for declaratory ruling. The Division shall be allowed to present a written response and oral arguments to the Commission at a regularly scheduled meeting.

(d) The Commission shall make a decision to grant or deny the request in accordance with G.S. 150B-4.

(e) The Commission shall deny the request upon making any of the following findings:

(1) the request is not complete;

(2) the petitioner is not a person aggrieved;

(3) there has been a similar determination in a previous contested case or declaratory ruling;

(4) the matter is the subject of a pending contested case hearing or litigation in any North Carolina or federal court;

(5) no genuine controversy exists as to the application of a statute, order, or rule to the factual situation presented;

(6) the factual context put forward as the subject of the declaratory ruling was considered upon the adoption of the rule being questioned, as evidenced by the rulemaking record;

(7) the information provided by the petitioner, the Department, or any interveners does not support a determination that a rule is invalid; or

(8) there is no material conflict or inconsistency within the Commission or Department regarding the law or rule identified by the petitioner.

(f) The Commission shall keep a record of each declaratory ruling, which shall include the following items:

(1) the request for a ruling;

(2) any written submission by a party;

(3) the statement of facts on which the ruling was based;

(4) any transcripts of oral proceedings, or, in the absence of a transcript, a summary of all arguments;
(5) any other matter considered by the Commission in making the decision; and
(6) the declaratory ruling, or the decision to refuse to issue a declaratory ruling, together with the reasons therefore.

(g) For purposes of this Section, a declaratory ruling shall be deemed to be in effect until:
(1) the statute or rule interpreted by the declaratory ruling is repealed or the relevant provisions of the statute or rule are amended or altered;
(2) any court of the Appellate Division of the General Court of Justice construes the statute or rule that is the subject of the declaratory ruling in a manner plainly irreconcilable with the declaratory ruling;
(3) the Commission changes the declaratory ruling prospectively; or
(4) any court sets aside the declaratory ruling in litigation between the Commission or Department of Environmental Quality and the party requesting the ruling.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52; 150B-4;*
Eff. April 1, 1999;
Readopted Eff. June 1, 2022.

SECTION .0300 - PETITIONS FOR RULEMAKING

15A NCAC 03P .0301 FORM AND CONTENTS OF PETITIONS FOR RULEMAKING

(a) Any person wishing to request the adoption, amendment, or repeal of a rule of the Marine Fisheries Commission shall submit the person's request in a written petition to the Marine Fisheries Commission Chair addressed to the Marine Fisheries Commission Office, Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557.

(b) The petition shall specify it is filed pursuant to G.S. 150B-20 and shall contain the following information:
(1) the text of the proposed rules for adoption or amendment;
(2) a statement of the reasons for adoption or amendment of the proposed rules, or the repeal of existing rules;
(3) a statement of the effect of the requested rule changes on:
(A) existing rules;
(B) existing practices in the area involved; and
(C) those most likely to be affected by the requested rule changes; and
(4) the name and address of the petitioner.

(c) The petitioner may include the following information within the request:
(1) the statutory authority for the agency to promulgate the rules;
(2) a statement of the cost factors for persons affected by the proposed rules;
(3) a statement explaining the computation of the cost factors;
(4) a description, including the names and addresses, if known, of those most likely to be affected by the proposed rules; and
(5) documents and data supporting the proposed rules.

(d) In its review of the proposed rules, the Commission shall consider:
(1) whether it has the authority to adopt the rules;
(2) the effect of the proposed rules on existing rules, programs, and practices;
(3) probable costs and cost factors of the proposed rules; and
(4) the impact of the rules on the public and regulated entities.

(e) A petition failing to contain the required information shall be returned by the Marine Fisheries Commission Chair.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 143B-289.51; 143B-289.52; 150B-20;*
Eff. April 1, 1999;
Readopted Eff. June 1, 2022.

15A NCAC 03P .0302 REVIEW OF RULEMAKING PETITIONS BY A COMMITTEE OF THE COMMISSION

(a) The Marine Fisheries Commission Chair may refer complete petitions, as set forth in Rule .0301 of this Section, to the appropriate standing advisory committees or other advisory committees of the Commission for review and recommended action. Copies of petitions for rulemaking shall be distributed to the Commission members when referred to a committee of the Commission.

(b) Within 10 days of the assignment of the complete petition, the Chair of the Committee assigned to review a submitted petition for rulemaking shall announce the date of a meeting to consider the petition.

(c) At least 15 days before the Committee meeting, the Committee Chair shall send notice of the Committee meeting to the petitioner, members of the Commission, and persons who have requested notice of petitions for rulemaking.

(d) If the petition is referred to a Committee, the petitioner shall be afforded the opportunity to present the petition for rulemaking to the Committee. The Fisheries Director, Division of Marine Fisheries staff, or their legal counsel may make a presentation to the Committee.
(e) The Committee Chair shall allow one interested person to present the viewpoint of those who oppose initiating rulemaking. The Committee Chair may determine whether additional interested persons shall make oral presentations before the Committee.
(f) At least 10 days before the Committee meeting, interested persons shall request the opportunity to make a presentation to the Committees through the Chairs of the Committees. The request shall:

(1) state the interest of the person;
(2) state the person's position on the petition for rulemaking; and
(3) be accompanied by supporting materials.

(g) During the Committee's review, members of the Commission, other than Committee members, who are present may participate as a member of the Committee in discussions of the petition but may not vote on the recommended action on the petition.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52; 150B-20;*
Eff. April 1, 1999;
Readopted Eff. June 1, 2022.

15A NCAC 03P .0303 PRESENTATION OF RULEMAKING PETITIONS TO THE COMMISSION

(a) A complete petition for rulemaking, as set forth in Rule .0301 of this Section, shall be presented to the Marine Fisheries Commission for its consideration and determination at the next regularly scheduled meeting of the Commission.
(b) If the petition for rulemaking was reviewed by a Committee pursuant to Rule .0302 of this Section, the petition and the Committee's recommended action shall be presented through the Chair of the Committee or other designated member of the Committee during the business session of the Commission. Unless the Commission Chair rules otherwise, discussion on the petition shall be limited to the members of the Commission, legal counsel to the Commission, the Fisheries Director, Division of Marine Fisheries staff, legal counsel to the Department of Environmental Quality, the petitioner, and the petitioner's legal counsel.
(c) For a petition not referred to a Committee, the Commission Chair shall allow one interested person to present the viewpoint of those who oppose initiating rulemaking. The Commission Chair may determine whether additional interested persons shall make oral presentations before the Commission. At least 10 days before the Commission meeting, interested persons shall request the opportunity to make a presentation to the Commission through the Commission Chair. The request shall:

(1) state the interest of the person;
(2) state the person's position on the petition for rulemaking; and
(3) be accompanied by supporting materials.

(d) Within 120 days following submission of the petition requesting rulemaking, the Marine Fisheries Commission shall:

(1) grant the petition in writing, notify the petitioner in writing, and initiate rulemaking proceedings in accordance with G.S. 150B-20; or
(2) deny the petition in writing, stating the reason or reasons for the denial, and send the written denial to the person or persons who submitted the petition.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52; 150B-20;*
Eff. April 1, 1999;
Readopted Eff. June 1, 2022.

15A NCAC 03P .0304 RECOURSE TO DENIAL OF THE PETITION

History Note: *Authority G.S. 113-134; 113-182; 143B-289.51; 150B-20;*
Eff. April 1, 1999;
Repealed Eff. June 1, 2022.

SUBCHAPTER 03Q - JURISDICTION OF AGENCIES: CLASSIFICATION OF WATERS

SECTION .0100 - GENERAL REGULATIONS: JOINT

15A NCAC 03Q .0101 SCOPE AND PURPOSE

The rules in this Section pertain to the classification of the waters of North Carolina as coastal fishing waters, inland fishing waters, and joint fishing waters. These rules are adopted jointly by the Marine Fisheries Commission and the Wildlife Resources Commission. In addition to the classification of the waters of the State, these joint rules set forth guidelines to determine which fishing activities in joint

fishing waters are regulated by the Marine Fisheries Commission and which are regulated by the Wildlife Resources Commission. Finally, the joint rules set forth special fishing regulations applicable in joint fishing waters that can be enforced by officers of the Division of Marine Fisheries and the Wildlife Resources Commission. These regulations do not affect the jurisdiction of the Marine Fisheries Commission and the Wildlife Resources Commission in any matters other than those specifically set out.

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

15A NCAC 03Q .0102 INLAND FISHING WATERS

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

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

15A NCAC 03Q .0103 COASTAL FISHING WATERS

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

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

15A NCAC 03Q .0104 JOINT FISHING WATERS

Joint fishing waters are those coastal fishing waters denominated by agreement of the Marine Fisheries Commission and the Wildlife Resources Commission pursuant to G.S. 113-132(e) as joint fishing waters. All waters that are tributary to joint fishing waters and not otherwise designated by agreement between the Marine Fisheries Commission and the Wildlife Resources Commission are classified as joint fishing waters.

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

15A NCAC 03Q .0105 POSTING DIVIDING LINES

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

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

Eff. January 1, 1991;
Readopted Eff. September 1, 2022.

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

(a) All coastal fishing laws and regulations administered by the Department of Environmental Quality and the Marine Fisheries Commission apply to joint fishing waters except as otherwise provided in this Section and shall be enforced by marine fisheries inspectors.

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

(1) all laws and regulations pertaining to inland game fishes;
(2) all laws and regulations pertaining to inland fishing license requirements for hook and line fishing; and
(3) all laws and regulations pertaining to hook and line fishing except as hereinafter provided.

History Note: *Authority G.S. 113-132; 113-134; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. July 1, 1999;
Readopted Eff. September 1, 2022.

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

The following shall supersede any inconsistent rules of the Marine Fisheries Commission or the Wildlife Resources Commission that would otherwise be applicable in joint fishing waters under the provisions of 15A NCAC 03Q .0106:

(1) Striped Bass
  (a) It is unlawful to possess any striped bass or striped bass hybrid that is less than 18 inches total length.
  (b) It is unlawful to possess striped bass or striped bass hybrids between 22 and 27 inches total length in joint fishing waters of the Central Southern Management Area as designated in 15A NCAC 03R .0201.
  (c) It is unlawful to possess striped bass or striped bass hybrids May through September in the joint fishing waters of the Central Southern Management Area and the Albemarle Sound Management Area.
  (d) It is unlawful to possess striped bass or striped bass hybrids taken from the joint fishing waters of the Cape Fear River.
  (e) It is unlawful to possess more than one daily creel limit of striped bass or striped bass hybrids, in the aggregate, per person per day, regardless of the number of management areas fished.
  (f) Possession of fish shall be assessed for the creel and size limits of the management area in which the individual is found to be fishing, regardless of the size or creel limits for other management areas visited by that individual in a given day.
  (g) It is unlawful to engage in net fishing for striped bass or striped bass hybrids in joint fishing waters except as authorized by rules of the Marine Fisheries Commission as set forth in 15A NCAC 03M .0201, .0202, .0204, .0205, and .0512.
(2) Lake Mattamuskeet:
  (a) It is unlawful to set or attempt to set any gill net in Lake Mattamuskeet canals designated as joint fishing waters.
  (b) It is unlawful to use or attempt to use any trawl net or seines in Lake Mattamuskeet canals designated as joint fishing waters.
(3) Cape Fear River. It is unlawful to use or attempt to use any net, net stakes, or electrical fishing device within 800 feet of the dam at Lock No.1 on the Cape Fear River.
(4) Shad: It is unlawful to possess more than 10 American shad or hickory shad, in the aggregate, per person per day taken by hook-and-line.

History Note: *Authority G.S. 113-132; 113-134; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. July 1, 1993; November 1, 1991;
Temporary Amendment Eff. May 1, 2000;
Amended Eff. July 1, 2008; September 1, 2005; April 1, 2001; August 1, 2000;
Readopted Eff. March 15, 2023.

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

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

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

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

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

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

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

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

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

SUBCHAPTER 03R – DESCRIPTIVE BOUNDARIES

SECTION .0100 – DESCRIPTIVE BOUNDARIES

15A NCAC 03R .0104 PERMANENT SECONDARY NURSERY AREAS

The permanent secondary nursery areas referenced in 15A NCAC 03N .0105(a) are delineated in the following coastal water areas:

(1) Roanoke Sound:
Inner Shallowbag Bay - west of a line beginning on the northeast shore at a point 35° 54.6729' N – 75° 39.8099' W; running southerly to the southeast shore to a point 35° 54.1722' N – 75° 39.6806' W;

(2) in the Pamlico Long Sound Area:

(a) Long Shoal River - north of a line beginning at the 5th Avenue Canal at a point 35° 35.2120' N – 75° 53.2232' W; running easterly to the east shore on Pains Point to a point 35° 35.0666' N – 75° 51.2000' W;

(b) Pains Bay - east of a line beginning on Pains Point at a point 35° 35.0666' N – 75° 51.2000' W; running southerly to Rawls Island to a point 35° 34.4666' N – 75° 50.9666' W; running easterly to the east shore to a point 35° 34.2309' N – 75° 50.2695' W;

(c) Wysocking Bay - northwest of a line beginning at Benson Point at a point 35° 22.9684' N – 76° 03.7129' W; running northeasterly to Long Point to a point 35° 24.6895' N – 76° 01.3155' W;

(d) Juniper Bay-Cunning Harbor - north of a line beginning on the west shore of Juniper Bay at a point 35° 20.6217' N – 76° 15.5447' W; running easterly to a point 35° 20.4372' N – 76° 13.2697' W; running easterly to the east shore of Cunning Harbor to a point 35° 20.3413' N – 76° 12.3378' W;

(e) Swanquarter Bay - north of a line beginning at The Narrows at a point 35° 20.9500' N – 76° 20.6409' W; running easterly to the east shore to a point 35° 21.5959' N – 76° 18.3580' W;

(f) Deep Cove - The Narrows - north and east of a line beginning on the west shore at a point 35° 20.9790' N – 76° 23.8577' W; running southeasterly to Swanquarter Island to a point 35° 20.5321' N – 76° 22.7869' W; and west of a line at The Narrows beginning on the north shore to a point 35° 20.9500' N – 76° 20.6409' W; running southerly to Swanquarter Island to a point 35° 20.7025' N – 76° 20.5620' W;

(g) Rose Bay - north of a line beginning on Long Point at a point 35° 23.3404' N – 76° 26.2491' W; running southeasterly to Drum Point to a point 35° 22.4891' N – 76° 25.2012' W;

(h) Spencer Bay - northwest of a line beginning on Roos Point at a point 35° 22.3866' N – 76° 27.9225' W; running northeasterly to Long Point to a point 35° 23.3404' N – 76° 26.2491' W;

(i) Abel Bay - northeast of a line beginning on the west shore at a point 35° 23.6463' N – 76° 31.0003' W; running southeasterly to the east shore to a point 35° 22.9353' N – 76° 29.7215' W;

(j) Mouse Harbor - west of a line beginning on Persimmon Tree Point at a point 35° 18.3915' N – 76° 29.0454' W; running southerly to Yaupon Hammock Point to a point 35° 17.1825' N – 76° 28.8713' W;

(k) Big Porpoise Bay - northwest of a line beginning on Big Porpoise Point at a point 35° 15.6993' N – 76° 28.2041' W; running southwesterly to Middle Bay Point to a point 35° 14.9276' N – 76° 28.8658' W;

(l) Middle Bay - west of a line beginning on Deep Point at a point 35° 14.8003' N – 76° 29.1923' W; running southerly to Little Fishing Point to a point 35° 13.5419' N – 76° 29.6123' W;

(m) Jones Bay - west of a line beginning on Mink Trap Point at a point 35° 13.4968' N – 76° 31.1040' W; running southerly to Boar Point to a point 35° 12.3253' N – 76° 31.2767' W; and

(n) in the Bay River Area:

(i) Bonner Bay - southeast of a line beginning on the west shore at a point 35° 09.6281' N – 76° 36.2185' W; running northeasterly to Davis Island Point to a point 35° 10.0888' N – 76° 35.2587' W; and

(ii) Gales Creek-Bear Creek - north and west of a line beginning on Sanders Point at a point 35° 11.2833' N – 76° 35.9000' W; running northeasterly to the east shore to a point 35° 11.9000' N – 76° 34.2833' W;

(3) in the Pamlico and Pungo Rivers Area:

(a) Pungo River - north of a line beginning on the west shore at a point 35° 32.2000' N – 76° 29.2500' W; running east near Beacon "21" to the east shore to a point 35° 32.0833' N – 76° 28.1500' W;

(b) Pungo Creek - west of a line beginning on Persimmon Tree Point at a point 35° 30.7633' N – 76° 38.2831' W; running southwesterly to Windmill Point to a point 35° 31.1546' N – 76° 37.7590' W;

(c) Scranton Creek - south and east of a line beginning on the west shore at a point 35° 30.6810' N – 76° 28.3435' W; running easterly to the east shore to a point 35° 30.7075' N – 76° 28.6766' W;

(d) Slade Creek - east of a line beginning on the west shore at a point 35° 27.8879' N – 76° 32.9906' W; running southeasterly to the east shore to a point 35° 27.6510' N – 76° 32.7361' W;

(e) Fortescue Creek - east of a line beginning on Pasture Point at a point 35° 25.9213' N – 76° 31.9135' W; running southerly to the Lupton Point shore to a point 35° 25.6012' N – 76° 31.9641' W;

(f) Pamlico River - west of a line beginning on Ragged Point at a point 35° 27.5768' N – 76° 54.3612' W; running southwesterly to Mauls Point to a point 35° 26.9176' N – 76° 55.5253' W;

(g) North Creek - north of a line beginning on the west shore at a point 35° 25.3988' N – 76° 40.0455' W; running southeasterly to the east shore to a point 35° 25.1384' N – 76° 39.6712' W;

(h) South Creek - west of a line beginning on Hickory Point at a point 35° 21.7385' N – 76° 41.5907' W; running southerly to Fork Point to a point 35° 20.7534' N – 76° 41.7870' W;

(i) Bond Creek/Muddy Creek - south of a line beginning on Fork Point at a point 35° 20.7534' N – 76° 41.7870' W; running southeasterly to Gum Point to a point 35° 20.5632' N – 76° 41.4645' W;

(j) in the Goose Creek Area, Campbell Creek - west of a line beginning on the north shore at a point 35° 17.3600' N – 76° 37.1096' W; running southerly to the south shore to a point 35° 16.9876' N – 76° 37.0965' W; and

(k) Oyster Creek-Middle Prong - southwest of a line beginning on Pine Hammock at a point 35° 19.5586' N – 76° 32.8830' W; running easterly to Cedar Island to a point 35° 19.5490' N – 76° 32.7365' W; and southwest of a line beginning on Cedar Island at a point 35° 19.4921' N – 76° 32.2590' W; running southeasterly to Beard Island Point to a point 35° 19.1265' N – 76° 31.7226' W;

(4) in the Neuse River Area:
  (a) Lower Broad Creek - west of a line beginning on the north shore at a point 35° 05.8314' N – 76° 35.3845' W; running southwesterly to the south shore to a point 35° 05.5505' N – 76° 35.7249' W;
  (b) Greens Creek - north of a line beginning on the west shore of Greens Creek at a point 35° 01.3476' N – 76° 42.1740' W; running northeasterly to the east shore to a point 35° 01.4899' N – 76° 41.9961' W;
  (c) Dawson Creek - north of a line beginning on the west shore at a point 34° 59.5920' N – 76° 45.4620' W; running southeasterly to the east shore to a point 34° 59.5800' N – 76° 45.4140' W;
  (d) Goose Creek - north and east of a line beginning at a point on the west shore at a point 35° 02.6642' N – 76° 56.4710' W; running southeasterly to a point on Cooper Point 35° 02.0908' N – 76° 56.0092' W;
  (e) Upper Broad Creek - northeast of a line beginning at a point on Rowland Point on the north shore at a point 35° 02.6166' N – 76° 56.4500' W; running southeasterly to the south shore to a point 35° 02.8960' N – 76° 56.7865' W;
  (f) Clubfoot Creek - south of a line beginning on the west shore at a point 34° 54.5424' N – 76° 45.7252' W; running easterly to the east shore to a point 34° 54.4853' N – 76° 45.4022' W; and
  (g) in the Adams Creek Area, Cedar Creek - east of a line beginning on the north shore at a point 34° 56.1203' N – 76° 38.7988' W; running southerly to the south shore to a point 34° 55.8745' N – 76° 38.8153' W;
(5) Newport River - west of a line beginning near Penn Point on the south shore at a point 34° 45.6960' N – 76° 43.5180' W; running northeasterly to the north shore to a point 34° 46.8490' N – 76° 43.3296' W;
(6) Virginia Creek - all waters of the natural channel northwest of the primary nursery area line;
(7) Old Topsail Creek - all waters of the dredged channel northwest of the primary nursery area line;
(8) Mill Creek - all waters west of a line beginning on the north shore at a point 34° 20.6420' N – 77° 42.1220' W; running southwesterly to the south shore to a point 34° 20.3360' N – 77° 42.2400' W;
(9) Pages Creek - all waters west of a line beginning on the north shore at a point 34° 16.1610' N – 77° 45.9930' W; running southwesterly to the south shore to a point 34° 15.9430' N – 77° 46.1670' W;
(10) Bradley Creek - all waters west of a line beginning on the north shore at a point 34° 12.7030' N – 77° 49.1230' W; running southerly near the dredged channel to a point 34° 12.4130' N – 77° 49.2110' W;
(11) Cape Fear River - all waters bounded by a line beginning on the south side of the Spoil Island at the intersection of the Intracoastal Waterway and the Cape Fear River ship channel at a point 34° 01.5780' N – 77° 56.0010' W; running easterly to the east shore of the Cape Fear River to a point 34° 01.7230' N – 77° 55.1010' W; running southerly and bounded by the shoreline to the Ferry Slip at Federal Point at a point 33° 57.8080' N – 77° 56.4120' W; running northerly to Bird Island to a point 33° 58.3870' N – 77° 56.5780' W; running northerly along the west shoreline of Bird Island and the Cape Fear River spoil islands back to the point of origin;
(12) Lockwood Folly River - all waters north of a line beginning on Howells Point at a point 33° 55.3680' N – 78° 12.7930' W and running in a westerly direction along the Intracoastal Waterway near Intracoastal Waterway Marker "46" to a point 33° 55.3650' N – 78° 13.8500' W;
(13) Saucepan Creek - all waters north of a line beginning on the west shore at a point 33° 54.6290' N – 78° 22.9170' W; running northeasterly to the east shore to a point 33° 54.6550' N – 78° 22.8670' W; and
(14) Davis Creek - all waters east of a line beginning on Horse Island at a point 33° 55.0160' N – 78° 12.7380' W; running southerly to Oak Island to a point 33° 54.9190' N – 78° 12.7170' W; continuing upstream to the primary nursery line and Davis Canal, all waters southeast of a line beginning on Pinner Point at a point 33° 55.2930' N – 78° 11.6390' W; running southwesterly across the mouth of Davis Canal to the spoil island at the southwest intersection of the Intracoastal Waterway and Davis Canal to a point 33° 55.2690' N – 78° 11.6550' W.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. March 1, 1996; March 1, 1994;
Recodified from 15A NCAC 3R .0004 Eff. December 17, 1996;
Amended Eff. April 1, 2011; August 1, 2004; May 1, 1997;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. May 1, 2021.

15A NCAC 03R .0105 SPECIAL SECONDARY NURSERY AREAS

The special secondary nursery areas referenced in 15A NCAC 03N .0105(b) are designated in the following coastal water areas:

(1) Roanoke Sound:

(a) Outer Shallowbag Bay - west of a line beginning on Baum Point at a point 35° 55.1461' N – 75° 39.5618' W; running southeasterly to Ballast Point to a point 35° 54.6250' N – 75° 38.8656' W; including the canal on the southeast shore of Shallowbag Bay; and

(b) Kitty Hawk Bay/Buzzard Bay - within the area designated by a line beginning at a point on the east shore of Colington Creek at a point 36° 02.4360' N – 75° 42.3189' W; running westerly to a point 36° 02.6630' N – 75° 41.4102' W; running along the shoreline to a point 36° 02.3264' N – 75° 42.3889' W; running southwesterly to a point 36° 02.1483' N – 75° 42.4329' W; running along the shoreline to a point 36° 01.6736' N – 75° 42.5313' W; running southwesterly to a point 36° 01.5704' N – 75° 42.5899' W; running along the shoreline to a point 36° 00.9162' N – 75° 42.2035' W; running southeasterly to a point 36° 00.8253' N – 75° 42.0886' W; running along the shoreline to a point 35° 59.9886' N – 75° 41.7284' W; running southwesterly to a point 35° 59.9597' N – 75° 41.7682' W; running along the shoreline to the mouth of Buzzard Bay to a point 35° 59.6480' N – 75° 32.9906' W; running easterly to Mann Point to a point 35° 59.4171' N – 75° 32.7361' W; running northerly along the shoreline to the point of beginning;

(2) in the West Bay Area:

(a) West Thorofare Bay - south of a line beginning on the west shore at a point 34° 57.2199' N – 76° 24.0947' W; running easterly to the east shore to a point 34° 57.4871' N – 76° 23.0737' W;

(b) Long Bay-Ditch Bay - west of a line beginning on the north shore of Ditch Bay at a point 34° 57.9388' N – 76° 27.0781' W; running southwesterly to the south shore of Ditch Bay to a point 34° 57.2120' N – 76° 27.2185' W; then south of a line running southeasterly to the east shore of Long Bay to a point 34° 56.7633' N – 76° 26.3927' W; and

(c) Turnagain Bay - south of a line beginning on the west shore at a point 34° 59.4065' N – 76° 30.1906' W; running easterly to the east shore to a point 34° 59.5668' N – 76° 29.3557' W;

(3) in the Core Sound Area:

(a) Cedar Island Bay - northwest of a line beginning near the gun club dock at a point 34° 58.7203' N – 76° 15.9645' W; running northeasterly to the south shore to a point 34° 57.7690' N – 76° 16.8781' W;

(b) Thorofare Bay-Barry Bay - northwest of a line beginning on Rumley Hammock at a point 34° 55.4853' N – 76° 18.2487' W; running northeasterly to Hall Point to a point 34° 54.4227' N – 76° 19.1908' W;

(c) Nelson Bay - northwest of a line beginning on the west shore of Nelson Bay at a point 34° 51.1353' N – 76° 24.5866' W; running northeasterly to Drum Point to a point 34° 51.6417' N – 76° 23.7620' W;

(d) Brett Bay - north of a line beginning on the west shore at a point 34° 49.4019' N – 76° 26.0227' W; running easterly to Piney Point to a point 34° 49.5799' N – 76° 25.0534' W; and

(e) Jarrett Bay - north of a line beginning on the west shore near Old Chimney at a point 34° 45.5743' N – 76° 30.0076' W; running easterly to a point east of Davis Island 34° 45.8325' N – 76° 28.7955' W;

(4) in the North River Area:

(a) North River - north of a line beginning on the west shore at a point 34° 46.0383' N – 76° 37.0633' W; running easterly to a point on the east shore 34° 46.2667' N – 76° 35.4933' W; and

(b) Ward Creek - east of a line beginning on the north shore at a point 34° 46.2667' N – 76° 35.4933' W; running southerly to the south shore to a point 34° 45.4517' N – 76° 35.1767' W;

(5) New River - all waters upstream of a line beginning on the north side of the N.C. Highway 172 Bridge at a point 34° 34.7680' N – 77° 23.9940' W; running southerly to the south side of the bridge at a point 34° 34.6000' N – 77° 23.9710' W;

(6) Chadwick Bay - all waters west of a line beginning on the northeast side of Chadwick Bay at a point 34° 32.5630' N – 77° 21.6280' W; running southeasterly to a point near Marker "6" at 34° 32.4180' N – 77° 21.6080' W; running westerly to Roses Point at a point 34° 32.2240' N – 77° 22.2880' W; following the shoreline in Fullard Creek to a point 34° 32.0340' N – 77° 22.7160' W; running northwesterly to a point 34° 32.2210' N – 77° 22.8080' W; following the shoreline to the west point of Bump's Creek at a point 34° 32.3430' N – 77° 22.4570' W; running northeasterly to the east shore to a point 34° 32.4400' N – 77° 22.3830' W; following the shoreline of Chadwick Bay back to the point of origin; and

(7) Intracoastal Waterway - all waters in the Intracoastal Waterway maintained channel from a point near Marker "17" north of Alligator Bay 34° 30.7930' N – 77° 23.1290' W; to a point near Marker "49" at Morris Landing at a point 34° 28.0820' N – 77° 30.4710' W; and all waters in the Intracoastal Waterway maintained channel and 100 feet on either side from Marker "49" to the N.C. Highway 50-210 Bridge at Surf City.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
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Readopted Eff. May 1, 2021.

15A NCAC 03R .0110 CRAB SPAWNING SANCTUARIES

The crab spawning sanctuaries referenced in 15A NCAC 03L .0205 are delineated in the following coastal fishing waters:

(1) in Areas from Barden Inlet and North:

(a) in the Oregon Inlet Area: beginning at a point on the Atlantic Ocean shore of Bodie Island 35° 47.7054' N - 75° 32.3522' W; running northeasterly to a point in the Atlantic Ocean 35° 47.9833' N - 75° 31.8500' W; running southerly to a point in the ocean 35° 46.3500' N - 75° 30.6666' W; running westerly to a point on the Atlantic Ocean shore at 35° 46.1037' N - 75° 31.2785' W; running northerly along the Atlantic shore of Pea Island to and around South Point and continuing southerly along the shore of Pamlico Sound to a point on the south point of Eagle Nest Bay at 35° 43.7085' N - 75° 30.8009' W; running westerly to a point in Pamlico Sound at 35° 43.7100' N - 75° 32.2113' W; running northerly to a point 35° 47.3992' N - 75° 34.1650' W in Pamlico Sound; running northerly to a point on Bodie Island 35° 48.7740' N – 75° 33.8722' W; running southerly along the shore to and around North Point at Oregon Inlet and then northerly on the Atlantic shore to the point of beginning;

(b) in the Hatteras Inlet Area: beginning at a point on the Pamlico Sound shoreline of Hatteras Island 35° 12.0846' N – 75° 43.3514' W; running northwesterly to a point in Pamlico Sound 35° 13.6361' N – 75° 45.4451' W; running southwesterly to a point near Outer Green Island 35° 11.0794' N – 75° 48.4440' W; running southeasterly to a point on the Pamlico Sound shore of Ocracoke Island 35° 10.7004' N – 75° 47.9094' W; running northeasterly along the shoreline to a point on the northeastern tip of Ocracoke Island 35° 11.2340' N – 75° 46.3051' W; running southeasterly to a point in the Atlantic Ocean at 35° 10.6644' N – 75° 44.5221' W; running northeasterly to a point on the ocean shoreline of Hatteras Island 35° 11.7895' N – 75° 43.5947' W; running southwesterly around the tip of Hatteras Island to the point of beginning;

(c) in the Ocracoke Inlet Area: beginning at a point on Ocracoke Island 35° 06.2555' N –75° 59.3722' W; running westerly through Shellcastle Island to a point in Pamlico Sound 35° 05.8599' N – 76° 04.3639' W; running southerly to a point on Portsmouth Island 35° 03.7379' N – 76° 04.7850' W; running northeasterly along the shore of Pamlico Sound around the western side of Ocracoke Inlet and southwesterly along the shore of the Atlantic Ocean to a point 35° 03.0500' N – 76° 03.0833' W; running southeasterly offshore to a point in the Atlantic Ocean 35° 02.6333' N - 76° 02.7166' W; running northeasterly to a point in the ocean 35° 03.9666' N - 75° 59.3000' W; running northwesterly to a point on the Atlantic shore of Ocracoke Island 35° 04.7402' N –75° 59.7124' W; running southwesterly along the shore around the eastern side of Ocracoke Inlet and northeasterly along the shore to the point of beginning;

(d) Ophelia and Drum Inlet Area: beginning at a point on the Core Sound shore of Core Banks 34 º 51.7718' N - 76º 18.5093' W; running northwesterly to a point in Core Sound 34º 52.3431' N - 76º 19.1661' W; running southwesterly to a point near Marker "27" in Core Sound 34º 50.6411' N - 76º 22.0094' W; running southwesterly to a point in Core Sound 34º 49.0120' N - 76º 23.0288' W; running southeasterly to a point on the Core Sound shore of Core Banks 34º 48.6143' N - 76º 22.3033' W; following the shoreline in a northeasterly direction around the western side of Ophelia Inlet then along the Atlantic Ocean shoreline southwesterly to a point on Core Banks 34º 48.9349' N - 76º 21.4582' W; extending 100 yards seaward from the shoreline from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point on Core Banks 34º 51.6790' N - 76º 18.3829' W; running southwesterly along the Atlantic Ocean shoreline toward and around the eastern side of Ophelia Inlet, then northeasterly along the Core Sound shore of Core Banks to the point of beginning; and

(e) Barden Inlet Area: beginning at a point on the Core Sound shore of Core Banks 34º 40.7131' N – 76º 28.9495' W; running northwesterly to a point on Harkers Island 34º 41.0674' N – 76º 31.5834' W; running southwesterly to a point on Shackleford Banks 34º 39.5418' N - 76º 34.0451' W; following the shoreline in southeasterly direction around the northern side of Barden Inlet then along the Atlantic Ocean shoreline northwesterly to a point on Shackleford Banks 34º 38.7748' N - 76º 32.8463' W; running southwesterly to a point in the Atlantic Ocean 34º 38.2938' N - 76º 33.5130' W; running southerly to a point near Buoy "2" at the end of the Cape Lookout Jetty in the Atlantic Ocean 34º 37.1253' N - 76º 33.7446' W; running southeasterly to a point on Cape Lookout 34º 36.7229' N - 76º 33.0514' W; running northerly along the Atlantic Ocean shoreline toward and around the southern side of Barden Inlet to a point on Cape Lookout

34º 36.5492' N - 76º 32.2416' W, then running northeasterly along the Core Sound shore of Core Banks to the point of beginning.

(2) in Areas from Beaufort Inlet and West and South:

(a) Beaufort Inlet Area: beginning at a point on the Back Sound side of Shackleford Banks 34º 41.0017' N - 76º 37.7538' W; running northerly to a point on Carrot Island 34º 42.3553' N - 76º 37.1124' W; running westerly along the shoreline to a point on Carrot Island 34º 42.6291' N - 76º 38.6608' W; running westerly to a point on Town Marsh 34º 42.6394' N - 76º 38.7442' W; running westerly along the shoreline to a point on Town Marsh 34º 42.7915' N - 76º 40.2489' W; running westerly to a point on Bird Shoal 34º 42.7694' N - 76º 40.4764' W; running northerly to a point on Pivers Island 34º 42.9294' N - 76º 40.4301' W; running northerly along the shoreline to a point on Pivers Island 34º 43.1892' N - 76º 40.3873' W; running northerly to a point on Radio Island 34º 43.2344' N - 76º 40.4099' W; running along the shoreline to a point on Radio Island 34º 43.2770' N - 76º 41.2422' W; running along the south side of the Highway 70 Bridge over the Newport River to a point near the Morehead City Port 34º 43.2419' N - 76º 41.7067' W; running southerly along the shore to a point near the Morehead City Port 34º 42.9560' N - 76º 41.6986' W; running southwesterly to a point on Goat Island 34º 42.7185' N - 76º 41.9145' W; running southeasterly along the shoreline to a point on Goat Island 34º 42.2031' N - 76º 41.3923' W; running southwesterly to a point on shore near Fort Macon State Park 34º 42.1709' N - 76º 41.3693' W; following the shoreline in a southwesterly direction around the western shoreline of Beaufort Inlet then along the Atlantic Ocean shoreline to a point on Bogue Banks 34º 41.6480' N - 76º 42.0986' W; extending 100 yards seaward from the shoreline from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running easterly then southeasterly and returning to shore parallel to a point on Shackleford Banks 34º 40.6129' N - 76º 38.1521' W; running northwesterly along the Atlantic Ocean shoreline around the eastern side of Beaufort Inlet, then running easterly along the Back Sound shore of Shackleford Banks to the point of beginning;

(b) Bogue Inlet Area: beginning at a point on Bogue Banks 34º 39.1828' N - 77º 05.8503' W; running northerly to a point 34º 40.1526' N - 77º 05.6346' W; running northerly to a point 34º 40.2531' N - 77º 05.6385' W; running westerly to a point 34º 40.2550' N - 77º 05.9450' W; running southerly to a point 34º 40.1732' N - 77º 05.9616' W; running southerly to a point 34º 39.9629' N - 77º 06.1038' W; running southerly to a point 34º 39.5209' N - 77º 06.4042; running southwesterly to a point 34º 39.0599' N - 77º 07.3287' W; running southerly to a point on Bear Island 34º 38.3856' N - 77º 07.2373'; following the shoreline in a northeasterly direction around the western shoreline of Bogue Inlet then along the Atlantic Ocean shoreline to a point on Bear Island 34º 37.5607' N - 77º 09.5752' W; extending 100 yards seaward from the shoreline from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point on Bogue Banks 34º 38.7491' N - 77º 05.2548' W; running southwesterly along the Atlantic Ocean shoreline around the eastern side of Bogue Inlet to a point 34º 38.7686' N - 77º 06.0596' W; running northerly to a point 34º 38.9900' N - 77º 06.1269' W, then running northeasterly to the point of beginning;

(c) Bear Inlet Area: beginning at a point on Bear Island 34º 37.7852' N - 77º 09.7128' W; running northerly to a point 34º 37.8817' N - 77º 09.7698' W; running southwesterly to a point 34º 37.6695' N - 77º 10.4134' W; running northwesterly to a point 34º 37.8105' N - 77º 10.5849' W; running southwesterly to a point on Saunders Island 34º 37.4531' N - 77º 11.0624' W; running southeasterly to a point on Browns Island 34º 37.2216' N - 77º 10.8461' W; following the shoreline in northeasterly direction around the western shoreline of Bear Inlet then along the Atlantic Ocean shoreline to a point on Browns Island 34º 36.1188' N - 77º 13.0193' W; extending 100 yards seaward from the shoreline from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point on Bear Island 34º 37.5607' N - 77º 09.5752' W; running southwesterly along the Atlantic Ocean shoreline around the eastern shoreline of Bear Inlet, then northeasterly along the shore to the point of beginning;

(d) Browns Inlet Area: beginning at a point on Browns Island 34º 35.8978' N - 77º 13.8409' W; running northwesterly to a point 34º 36.0015' N - 77º 13.9606' W; running westerly to a point 34º 35.9360' N - 77º 14.1340' W; running southerly to a point 34º 35.6631' N - 77º 14.1270' W; following the shoreline in a northeasterly direction around the western shoreline of Browns Inlet then along the Atlantic Ocean shoreline to a point 34º 33.7692' N - 77º 16.8043' W; extending 100 yards seaward from the shoreline from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point on Browns Island 34º 36.1188' N - 77º 13.0193' W; running southwesterly along the Atlantic Ocean shoreline around the eastern shoreline of Browns Inlet, then northerly along the shore to the point of beginning;

(e) New River Inlet Area: beginning at a point on shore on the south side of Wards Channel 34º 32.2064' N - 77º 19.8404' W; running northwesterly to a point 34º 33.1386' N - 77º 20.8902' W; running westerly to a point 34º 33.1097' N - 77º 21.1013' W; running southeasterly to a point 34º 32.3473' N - 77º 20.6013' W; running southwesterly to a point on Topsail Island 34º 32.1096' N - 77º 20.8447' W; following the shore line in a southerly direction around the western shoreline of New River Inlet then along the Atlantic Ocean shoreline to a point 34º 31.3352' N - 77º 21.1694' W; extending 100 yards seaward from the shoreline from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point 34º 33.7692' N - 77º 16.8043' W; running southwesterly along the Atlantic Ocean shoreline around the eastern shoreline of New River Inlet, then northeasterly along the shore to the point of beginning;

(f) Topsail Inlet Area: beginning at a point on Topsail Island 34º 21.9619' N - 77º 37.8381' W; running northwesterly to a point in Topsail Sound 34º 22.1071' N - 77º 37.9944' W; running southwesterly to a point near Marker "5" 34º 21.7185' N - 77º 38.3499' W; running southwesterly to a point near Marker "3" 34º 21.5798' N - 77º 38.5928' W; running southwesterly to a point near Marker "1" 34º 21.1055' N - 77º 39.1749' W; running northwesterly to a point 34º 21.2065' N - 77º 39.6127' W; running southwesterly to a point 34º 20.7450' N - 77º 40.3682' W; running southerly to a point 34º 20.3011' N - 77º 40.3728' W; following the shoreline in a northeasterly direction around the western shoreline of Topsail Inlet then along the Atlantic Ocean shoreline to a point on Lea-Hutaff Island 34º 20.0228' N - 77º 40.4332' W; extending 100 yards seaward from the shoreline from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point on Topsail Island 34º 20.8762' N - 77º 38.9403' W; running southwesterly along the Atlantic Ocean shoreline around the eastern shore of Topsail Inlet, then northeasterly along the Topsail Sound shore of Topsail Island to the point of beginning;

(g) Rich Inlet Area: beginning at a point on Lea-Hutaff Island 34º 18.1292' N - 77º 42.6492' W; running northwesterly to a point 34º 18.2851' N - 77º 42.9352' W; running southwesterly to a point 34º 18.0190' N - 77º 43.2798' W; running southerly to a point on Figure Eight Island 34º 17.5649' N - 77º 43.1649' W; following the shoreline in an easterly direction around the southern shoreline of Rich Inlet then along the Atlantic Ocean shoreline to a point on Figure Eight Island 34º 17.2243' N - 77º 43.2491' W; extending 100 yards seaward from the shoreline from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point on Lea-Hutaff Island 34º 18.1251' N - 77º 42.4352' W; running southwesterly along the Atlantic Ocean shoreline around the northern shoreline of Rich Inlet, then northeasterly along the shore to the point of beginning;

(h) Mason Inlet Area: beginning at a point on Figure Eight Island 34º 14.9536' N - 77º 45.9567' W; running northwesterly to a point 34º 15.0409' N - 77º46.1766' W; running southwesterly to a point 34º 14.8657' N - 77º 46.4044' W; running southwesterly to a point 34º 14.7256' N - 77º 46.5348' W; running southerly to a point on Shell Island 34º 14.2036' N - 77º 46.5189' W; following the shoreline in a northeasterly direction around the southern shoreline of Mason Inlet then along the Atlantic Ocean shoreline to a point on Shell Island 34º 14.1375' N - 77º 46.4263' W; extending 100 yards seaward from the shoreline from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point on Figure Eight Island 34º 14.8474' N - 77º 45.7857' W; running southwesterly along the Atlantic Ocean shoreline around the northern shoreline of Mason Inlet, then northeasterly along the shore to the point of beginning;

(i) Masonboro Inlet Area: beginning at a point on Wrightsville Beach 34º 11.3446' N - 77º 48.7458' W; running northwesterly to a point 34º 11.4604' N - 77º 49.0510' W; running northwesterly to a point 34º 11.5164' N - 77º 49.2368' W; running northwesterly to a point 34º 11.5255' N - 77º 49.2652' W; running northwesterly to a point 34º 11.5700' N - 77º 49.4425' W; running southwesterly to a point 34º 11.3553' N - 77º 49.5924' W; running easterly to a point 34º 11.3737' N - 77º 49.4628' W; running easterly to a point 34º 11.3737' N - 77º 49.4345' W; following the shoreline southeasterly to a point 34º 11.2551' N - 77º 49.2287' W; running southerly to a point on Masonboro Island 34º 10.8451' N - 77º 49.0242' W; following the shoreline in an easterly direction around the southern shoreline of Masonboro Inlet through a point at the base of the jetty 34º 10.8814' N - 77º 48.7074' W; running southwesterly along the Atlantic Ocean shoreline to a point on Masonboro Island 34º 10.5221' N - 77º 49.1658' W; extending 100 yards seaward from the shoreline and the Atlantic Ocean side of the jetties from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and returning to shore parallel to a point 34º 11.5753' N - 77º 48.3061' W; running southwesterly along the Atlantic Ocean shoreline through a point at the base of the jetty 34º 11.2076' N - 77º 48.5555' W, around the northern shoreline of Masonboro Inlet then northeasterly along the shore to the point of beginning;

(j) Carolina Beach Inlet Area: beginning at a point on Masonboro Island 34º 04.8168' N - 77º 52.8796' W; running southerly to a point 34º 04.4997' N - 77º 53.0080' W; following the shoreline in an easterly direction to a point 34º 04.5022' N - 77º 52.7982' W; running easterly to a point on Pleasure Island 34º 04.5102' N - 77º 52.7340' W; following the shoreline in an easterly direction around the southern shoreline of Carolina Beach Inlet then along the Atlantic Ocean shoreline to a point on Pleasure Island 34º 04.3505' N - 77º 52.5048' W; extending 100 yards seaward from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point on Masonboro Island 34º 05.2151' N - 77º 52.1472' W; running southeasterly along the Atlantic Ocean shoreline around the northern shoreline of Carolina Beach Inlet, then westerly along the shore to the point of beginning;

(k) Cape Fear River Inlet Area: beginning at a point on Bald Head Island 33º 52.7072' N - 78º 00.0449' W; running northeasterly to a point 33º 53.6135' N - 77º 59.2549' W; running northerly to a point 33º 54.4086' N - 77º 59.0330' W; running northerly to a point 33º 54.8399' N - 77º 58.9115' W; running westerly to a point at Southport 33º 54.9503' N - 78º 01.3581' W; running southerly to a point on Fort Caswell 33º 53.7948' N - 78º 01.0782' W; following the shoreline in a southerly direction around the western shoreline of Cape Fear River Inlet then westerly along the Atlantic Ocean shoreline to a point on Caswell Beach 33º 53.4293' N - 78º 01.7604' W; extending 100 yards seaward from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running southerly to point near Buoy "12" 33º 51.8213' N - 78º 01.0179' W; running southeasterly to a point 33º 51.1999' N - 78º 00.0632' W; running northeasterly to a point on Bald Head Island 33º 51.3488' N - 77º 59.9222' W; running northwesterly along the Atlantic Ocean shoreline around the eastern shore of Cape Fear River Inlet, then northeasterly along the shore to the point of beginning;

(l) Lockwoods Folly Inlet Area: beginning at a point on Oak Island 33º 54.9392' N - 78º 13.6711' W; running northerly to a point on Sheep Island 33º 55.0837' N - 78º 13.6753' W; following the shoreline northwesterly to a point on Sheep Island 33º 55.2263' N - 78º 13.9395' W; running westerly to a point on Holden Beach 33º 55.1794' N - 78º 14.3132' W; following the shoreline in a southwesterly direction around the western shore of Lockwoods Folly Inlet then along the Atlantic Ocean shoreline to a point on Holden Beach 33º 54.8695' N - 78º 14.6180' W; running southerly to a point in the Atlantic Ocean 33º 54.6076' N - 78º 14.6026' W; running easterly to a point in the Atlantic Ocean 33º 54.5564' N - 78 14.0529' W; running northerly to a point on Oak Island 33º 54.8853' N - 78º 14.0041' W; running northwesterly along the Atlantic Ocean shoreline around the eastern shore of Lockwoods Folly Inlet, then easterly along the shore to the point of beginning;

(m) Shallotte Inlet Area: beginning at a point near Monks Island 33º 54.5773' N - 78º 22.8077' W; running southwesterly to a point on Ocean Isle Beach 33º 54.2436' N - 78º 23.2758' W; following the shoreline in a southerly direction around the western shore of Shallotte Inlet then along the Atlantic Ocean shoreline to a point on Ocean Isle Beach 33º 53.8151' N - 78º 23.7753' W; extending 100 yards seaward from the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running easterly and returning to shore parallel to a point on Big Beach 33º 54.1103' N - 78º 21.9540' W; running westerly along the Atlantic Ocean shoreline around the eastern shore of Shallotte Inlet, then northerly along the shore to the point of beginning; and

(n) Tubbs Inlet Area: beginning at a point on the Jinks Creek shore of Ocean Isle Beach 33º 52.5844' N - 78º 28.6583' W; running northerly to a point 33º 52.7734' N - 78º 28.7428' W; running southwesterly to a point 33º 52.6815' N - 78º 29.0080' W; running southwesterly to a point on the Eastern Channel shore of Sunset Beach 33º 52.3878' N - 78º 29.1301' W; following the shoreline in an easterly direction around the western shore of Tubbs Inlet then along the Atlantic Ocean shoreline to a point on Sunset Beach 33º 52.3250' N - 78º 29.1865' W; extending 100 yards seaward of the mean high water line and the COLREG Demarcation Line in the Atlantic Ocean and running northeasterly and returning to shore parallel to a point on Ocean Isle Beach 33º 52.5676' N - 78º 28.4027' W; running southwesterly along the Atlantic Ocean shoreline around the eastern shore of Tubbs Inlet then in a northerly direction along the shore to the point of beginning.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. September 1, 1991;
Recodified from 15A NCAC 03R .0010 Eff. December 17, 1996;
Amended Eff. August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. March 15, 2023.

15A NCAC 03R .0111 PURSE SEINES PROHIBITED

The areas referenced in 15A NCAC 03J .0105(b)(1) are delineated in the following coastal fishing waters of the Atlantic Ocean:

(1) in the Atlantic Ocean within an area bounded by a line extending from a point near the Bald Head Lighthouse 33° 52.3500' N - 78° 00.3000' W; running southwesterly to a point near the Cape Fear River ship channel buoy "9" 33° 51.5500' N – 78° 01.5500' W; running northwesterly to a point near the foot of the Yaupon Beach Fishing Pier on Oak Island 33° 54.2000' N – 78° 04.9333' W; following the shoreline easterly to a point near Fort Caswell 33° 53.2166' N – 78° 01.1833' W; running southeasterly to the point of beginning;

(2) in the Atlantic Ocean from May 1 through September 30:

(a) in the area bounded by a line beginning at a point onshore at the northern boundary of Dare County 36° 13.8536' N - 75° 46.3914'W; running easterly 1.5 nautical miles to a point offshore 36° 13.8536'N - 75° 44.3814' W; running southerly parallel to and 1.5 nautical miles from the ocean beach to a point 1.5 nautical miles offshore at the northern town limits of Southern Shores 36° 09.0673' N - 75° 44.2225' W; running westerly to a point onshore at the northern town limits of Southern Shores 36° 09.0673' N - 75° 42.2416' W; and

(b) in the area bounded by a line beginning at a point at the southern limits of Kitty Hawk 36° 03.3187' N - 75° 40.9503' W; running easterly 1.5 nautical miles to a point offshore 36° 03.3187' N - 75° 38.8029' W; running southerly parallel to and 1.5 nautical miles from the ocean beach to a point 1.5 nautical miles offshore of the rock jetty south of Oregon Inlet 35° 46.4052' N - 75° 29.2379' W; running westerly to a point onshore at the rock jetty south of Oregon Inlet 35° 46.4052' N - 75° 31.5369' W; and

(3) in the Atlantic Ocean from October 1 through December 31:

(a) in the area bounded by a line beginning at a point onshore at the northern boundary of Dare County 36° 13.8536' N - 75° 46.3914' W; running easterly 0.5 nautical miles to a point offshore 36° 13.8536' N - 75° 45.6977' W; running southerly parallel to and 0.5 nautical miles off the ocean beach to a point 0.5 nautical miles offshore at the northern town limits of Southern Shores 36° 09.0673' N - 75° 43.5514' W; running westerly 0.5 nautical miles to a point onshore at the northern town limits of Southern Shores 36° 09.0673' N - 75° 44.2416' W; and

(b) in the area bounded by a line beginning at a point at the southern limits of Kitty Hawk 36° 03.3187' N - 75° 40.9503' W; running easterly 0.5 nautical miles to a point offshore 36° 03.3187' N - 75° 40.2033' W; running southerly parallel to and 0.5 nautical miles off the ocean beach to a point offshore at the rock jetty south of Oregon Inlet 35° 46.4052' N - 75° 30.6134' W; running westerly to a point onshore at the rock jetty south of Oregon Inlet 35° 46.4052' N - 75° 31.5369' W.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. October 1, 1993;
Recodified from 15A NCAC 03R .0011 Eff. December 17, 1996;
Amended Eff. August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. March 15, 2023.

15A NCAC 03R .0117 OYSTER SANCTUARIES

The Oyster Sanctuaries referenced in 15A NCAC 03K .0209 are delineated in the following coastal water areas:

(1) Pamlico Sound area:

(a) Croatan Sound: within the area described by a line beginning at a point 35° 48.2842' N - 75° 38.3360' W; running southerly to a point 35° 48.1918' N - 75° 38.3360' W; running westerly to a point 35° 48.1918' N - 75° 38.4575' W; running northerly to a point 35° 48.2842' N - 75° 38.4575' W; running easterly to the point of beginning.

(b) Crab Hole: within the area described by a line beginning at a point 35° 43.6833' N - 75° 40.5083' W; running southerly to a point 35° 43.5000' N - 75° 40.5083' W; running westerly to a point 35° 43.5000' N - 75° 40.7500' W; running northerly to a point 35° 43.6833' N - 75° 40.7500' W; running easterly to the point of beginning.

(c) Pea Island: within the area described by a line beginning at a point 35° 05.4760' N - 76° 23.5370' W; running southerly to a point 35° 05.4760' N - 76° 23.4040' W; running westerly to a point 35° 05.3680' N - 76° 23.4040' W; running northerly to a point 35° 05.3680' N - 76° 23.5370' W; running easterly to the point of beginning.

(d) Long Shoal: within the area described by a line beginning at a point 35° 33.8600' N - 75° 49.9000' W; running southerly to a point 35° 33.8600' N - 75° 49.7670' W; running westerly to a point 35° 33.7510' N - 75° 49.7670' W; running northerly to a point 35° 33.7510' N - 75° 49.9000' W; running easterly to the point of beginning.

(e) Gibbs Shoal: within the area described by a line beginning at a point 35° 27.3550' N - 75° 55.9190' W; running southerly to a point 35° 27.1010' N - 75° 55.9190' W; running westerly to a point 35° 27.1010' N - 75° 56.2300' W; running northerly to a point 35° 27.3550' N - 75° 56.2300' W; running easterly to the point of beginning.

(f) Deep Bay: within the area described by a line beginning at a point 35° 22.9126' N - 76° 22.1612' W; running southerly to a point 35° 22.7717' N - 76° 22.1612' W; running westerly to a point 35° 22.7717' N - 76° 22.3377' W; running northerly to a point 35° 22.9126' N - 76° 22.3377' W; running easterly to the point of beginning.

(g) West Bluff: within the area described by a line beginning at a point 35° 18.3160' N - 76° 10.2960' W; running southerly to a point 35° 18.3160' N - 76° 10.0690' W; running westerly to a point 35° 18.1290' N - 76° 10.0690' W; running northerly to a point 35° 18.1290' N - 76° 10.2960' W; running easterly to the point of beginning.

(h) Middle Bay: within the area described by a line beginning at a point 35° 14.1580' N - 76° 30.1780' W; running southerly to a point 35° 14.1150' N - 76° 30.1780' W; running westerly to a point 35° 14.1150' N - 76° 30.3320' W; running northerly to a point 35° 14.1580' N - 76° 30.3320' W; running easterly to the point of beginning.

(i) Swan Island: within the area described by a line beginning at a point 35° 05.6170' N - 76° 27.5040' W; running southerly to a point 35° 05.6020' N - 76° 26.7650' W; running westerly to a point 35° 05.4850' N - 76° 26.7640' W; running northerly to a point 35° 05.4990' N - 76° 27.5030' W; running easterly to the point of beginning.

(j) Raccoon Island: within the area described by a line beginning at a point 35° 05.4760' N - 76° 23.5370' W; running southerly to a point 35° 05.4760' N - 76° 23.4040' W; running westerly to a point 35° 05.3860' N - 76° 23.4040' W; running northerly to a point 35° 05.3680' N - 76° 23.5370' W; running easterly to the point of beginning.

(k) West Bay: within the area described by a line beginning at a point 34° 58.8517' N - 76° 21.3632' W; running southerly to a point 34° 58.7661' N - 76° 21.3632' W; running westerly to a point 34° 58.7661' N - 76° 21.4735' W; running northerly to a point 34° 58.8517' N - 76° 21.4735' W; running easterly to the point of beginning.

(2) Neuse River area:

(a) Little Creek: within the area described by a line beginning at a point 35° 02.6940' N - 76° 30.9840' W; running southerly to a point 35° 02.6940' N - 76° 30.7940' W; running westerly to a point 35° 02.5380' N - 76° 30.7940' W; running northerly to a point 35° 02.5380' N - 76° 30.9840' W; running easterly to the point of beginning.

(b) Neuse River: within the area described by a line beginning at a point 35° 00.4910' N - 76° 31.9350' W; running southerly to a point 35° 00.3750' N - 76° 31.9350' W; running westerly to a point 35° 00.3750' N - 76° 32.0750' W; running northerly to a point 35° 00.4910' N - 76° 32.0750' W; running easterly to the point of beginning.

History Note: *Authority G.S. 113-134; 113-182; 113-201; 113-204; 143B-289.52;*
Eff. October 1, 2008;
Amended Eff. April 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. May 1, 2021.

15A NCAC 03R .0118 CRAB HARVEST MANAGEMENT AREAS

The areas referenced in 15A NCAC 03L .0201(a) and (b) are delineated in the following coastal fishing waters:

(1) Northern Region: All Coastal Fishing Waters of the state north and east of a line extending southeast from the Highway 58 Bridge to a point offshore at 34° 36.3292' N - 77° 02.5940' W to the North Carolina/Virginia state line.

(2) Southern Region: All Coastal Fishing Waters of the State south and west of a line extending southeast from the Highway 58 Bridge to a point offshore at 34° 36.3292' N - 77° 02.5940' W to the North Carolina/South Carolina state line.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. April 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. March 15, 2023.

15A NCAC 03R .0119 OCEAN ARTIFICIAL REEFS

The Ocean Artificial Reefs referenced in 15A NCAC 03J .0404 are delineated in the following Coastal Fishing Waters of the Atlantic Ocean:

(1) AR-160: within the circular area described by a center point at 35° 43.8880' N - 75° 26.7710' W and radius extending 1,500 feet.
(2) AR-165: within the circular area described by a center point at 35° 41.6720' N - 75° 26.3130' W and radius extending 1,500 feet.
(3) AR-275: within the circular area described by a center point at 34° 50.0930' N - 76° 16.8800' W and radius extending 1,500 feet.
(4) AR-315: within the circular area described by a center point at 34° 40.0850' N - 76° 44.8270' W and radius extending 3,000 feet.
(5) AR-320: within the circular area described by a center point at 34° 39.5330' N - 76° 48.4170' W and radius extending 1,500 feet.
(6) AR-342: within the circular area described by a center point at 34° 36.6720' N - 77° 2.1890' W and radius extending 1,500 feet.
(7) AR-360: within the circular area described by a center point at 34° 20.9830' N - 77° 36.1830' W and radius extending 1,500 feet.
(8) AR-364: within the circular area described by a center point at 34° 14.8060' N - 77° 42.8550' W and radius extending 1,500 feet.
(9) AR-370: within the circular area described by a center point at 34° 10.4530' N - 77° 45.2810' W and radius extending 3,000 feet.
(10) AR-378: within the circular area described by a center point at 34° 1.8070' N - 77° 52.0910' W and radius extending 1,500 feet.
(11) AR-378b: within the circular area described by a center point at 34° 0.6420' N - 77° 50.6540' W and radius extending 1,500 feet.
(12) AR-425: within the circular area described by a center point at 33° 53.0480' N - 78° 6.5250' W and radius extending 1,500 feet.
(13) AR-430: within the circular area described by a center point at 33° 52.2560' N - 78° 09.9680' W and radius extending 1,500 feet.

History Note: *Authority G.S. 113-134; 113-182; 143B-289.52;*
Eff. August 23, 2022.

NORTH CAROLINA ADMINISTRATIVE CODE
TITLE 15A – ENVIRONMENTAL QUALITY
CHAPTER 18 – ENVIRONMENTAL HEALTH

SUBCHAPTER 18A – SANITATION

SECTION .0100 – HANDLING, PACKING, AND SHIPPING OF CRUSTACEA MEAT

15A NCAC 18A .0134 DEFINITIONS

The following definitions shall apply to this Section; however, nothing in this Section shall be construed as expanding or restricting the definitions in G.S. 106-129 and G.S. 106-130:

(1) "Adulterated" as defined in G.S. 106-129 shall include the following:
  (a) any cooked crustacea or crustacea meat that does not comply with the rules in this Section;
  (b) any cooked crustacea or crustacea meat that exceeds the bacteriological standards in Rule .0182 of this Section; or
  (c) any cooked crustacea or crustacea meat that has been deemed to be an imminent hazard.
(2) "Clean" means free from dirt, debris, dust, marks, stains, waste materials, litter, or foreign material.
(3) "Code date" means the date legibly placed on the container to indicate the date that the product was packed.
(4) "Cook" means to prepare or treat raw crustacea by heating.
(5) "Critical control point" means a point, step, or procedure in a food process at which a control can be applied and a food safety hazard can, as a result, be prevented, eliminated, or reduced to acceptable levels.
(6) "Critical limit" means the maximum or minimum value to which a biological, chemical, or physical parameter shall be controlled at a critical control point to prevent, eliminate, or reduce to an acceptable level the occurrence of the identified food safety hazard.
(7) "Crustacea meat" means the meat of crabs, lobster, shrimp, or crayfish.
(8) "Division" means the Division of Marine Fisheries.
(9) "Easily cleanable" has the same meaning as defined in the 2017 U.S. Food Code. 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/fda-food-code/food-code-2017, at no cost.
(10) "Food-contact surface" means the parts of equipment, including auxiliary equipment, that may be in contact with the food being processed, or that may drain into the portion of equipment with which food is in contact.
(11) "Food safety hazard" means any biological, chemical, or physical property that may cause a food to be unsafe for human consumption.
(12) "Foreign" means any place or location outside the United States.
(13) "Fresh crustacea" means a live, raw, or frozen raw crab, lobster, shrimp, or crayfish that shows no decomposition.
(14) "Good repair" means maintained in order to function as designed and without defect.
(15) "HACCP plan" means a written document that delineates the procedures a dealer follows to implement food safety controls.
(16) "Hazard analysis critical control point (HACCP)" means a system of inspection, control, and monitoring measures initiated by a dealer to identify microbiological, chemical, or physical food safety hazards that are likely to occur in shellfish products produced by the dealer.
(17) "Imminent hazard" has the same meaning as defined in G.S. 130A-2.
(18) "Internal temperature" means the temperature of the product as opposed to the ambient temperature.
(19) "Misbranded" as defined in G.S. 106-130 shall include any container of cooked crustacea or crustacea meat that is not labeled in compliance with the rules in this Section.
(20) "Most probable number (MPN)" means a statistical estimate of the number of bacteria per unit volume and is determined from the number of positive results in a series of fermentation tubes.
(21) "Operating season" means the season of the year during which a crustacea product is processed.
(22) "Pasteurization" means the process of heating every particle of crustacea meat in a hermetically-sealed container to a temperature of at least 185° F (85° C) and holding it continuously at or above this temperature for at least one minute at the geometric center of a container in equipment being operated in compliance with the Process Validation Study Report. The term includes any other process that has been found equally effective by the Division.
(23) "Pasteurization date" means a code legibly placed on the container to indicate the date that the product was pasteurized.
(24) "Process Validation Study Report" means a report of tests that shows a piece of equipment can produce time-temperature results as required by the rules of this Section, and the procedures required to achieve such results.

(25) "Processing" means any of the following operations when carried out in conjunction with the cooking of crustacea or crustacea meat: receiving, refrigerating, air-cooling, picking, packing, repacking, thermal processing, or pasteurizing.
(26) "Repacker" means a facility that repacks cooked crustacea meat into other containers.
(27) "Responsible individual" means the individual present in a cooked crustacea facility who is the apparent supervisor of the cooked crustacea facility at the time of the inspection. If no individual is the apparent supervisor, then any employee is the responsible individual.
(28) "Retort" means a pressure vessel used to cook raw crustacea.
(29) "Sanitize" has the same meaning as defined in 21 CFR 110.3, which is incorporated by reference including subsequent amendments and editions. A copy of the reference material can be found at https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-110/subpart-A/section-110.3, at no cost.
(30) "Thermal processing" means the heating of previously cooked crustacea or crustacea meat to a desired temperature for a specified time at the geometric center of a container in equipment being operated in compliance with the Process Validation Study Report.

History Note: *Authority G.S. 106-129; 106-130; 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Amended Eff. August 1, 2000; August 1, 1998; February 1, 1997;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0135 PERMITS

(a) It shall be unlawful to operate a processing facility without first obtaining a Crustacea Permit and Certificate of Compliance from the Division of Marine Fisheries.
(b) Application for a permit shall be submitted in writing to the Division. Application forms may be obtained from the Division, P.O. Box 769, 3441 Arendell Street, Morehead City, NC 28557.
(c) No permit shall be issued by the Division until an inspection by the Division shows that the facility and equipment comply with applicable rules of this Section. The owner or responsible person shall sign the completed inspection sheet to acknowledge receipt of the inspection sheet.
(d) The permit shall be posted in a conspicuous place in the facility.
(e) All permits shall expire on March 31 of each year and are non-transferrable.
(f) Plans and specifications for proposed new construction, expansion of operations, or changes in operating processes shall be submitted to the Division for review and approval prior to beginning construction or making a change.
(g) A permit may be revoked or suspended in accordance with 15A NCAC 03O .0504.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. March 15, 2023.

15A NCAC 18A .0136 APPLICABILITY OF RULES

The rules in this Section shall apply to the operation of all facilities and persons permitted in Rule .0135 of this Section and all other businesses and persons that buy, sell, transport, or ship cooked crustacea or crustacea meat that has not been transformed into another product.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Amended Eff. April 1, 1997;
Readopted Eff. August 23, 2022.

15A NCAC 18A .0137 GENERAL REQUIREMENTS FOR OPERATION

(a) During the operating season the processing portion of the facility shall be used for no purpose other than the processing of cooked crustacea or crustacea meat.
(b) Retail sales of cooked crustacea or crustacea meat shall not be made from any processing portion of the facility.
(c) Accurate records of all purchases and sales of crustacea and crustacea meat shall be maintained for one year. The records shall be available for inspection by the Division of Marine Fisheries.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;

Amended Eff. April 1, 1997;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0138 SUPERVISION

(a) The owner or responsible individual shall supervise the processing operation and be responsible for compliance with the rules of this Section, including compliance with personal hygiene requirements as set forth in Rule .0153 of this Section.

(b) No unauthorized individuals shall be allowed in the facility during the periods of operation. For the purpose of this Rule, "unauthorized individual" shall mean an individual that is not designated and trained by the owner or responsible individual to perform specific processing tasks in the facility.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0139 FACILITY FLOODING

(a) If the facility floors are flooded, processing shall be discontinued until flood waters have receded and the facility and equipment are cleaned and sanitized.

(b) Any cooked crustacea or crustacea meat that may have been contaminated by flood waters shall be deemed adulterated and disposed of in accordance with G.S. 113-221.4 and Rule .0181 of this Section.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 113-221.4; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0140 FLOORS

Floors shall be of concrete or other impervious material, constructed so that they are easily cleanable and shall be sloped so that water drains.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0141 WALLS AND CEILINGS

(a) Walls and ceilings shall be constructed of smooth, easily cleanable, non-corrosive, impervious material.

(b) Insulation on cooked crustacea cooler walls shall be covered to the ceiling with a smooth, easily cleanable, non-corrosive, impervious material.

(c) Doors and windows shall be tightly fitted and maintained in good repair so as to keep insects and weather out of the facility.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0142 LIGHTING

(a) Natural or artificial lighting shall be provided in all parts of the facility. Minimum lighting intensities shall be as follows:

(1) 50 foot-candles on working surfaces in the picking and packing rooms and areas.

(2) 10 foot-candles measured at a height of 30 inches above the floor throughout the rest of the processing portion of the facility.

(b) Light bulbs within the processing portion of the facility shall be shatterproof or shielded to prevent product contamination in case of breakage.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0143 VENTILATION

All rooms and areas shall be ventilated.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0144 INSECT CONTROL

All outside openings shall be screened, provided with wind curtains, or be provided with other methods to eliminate the entrance of insects. All screens shall be kept in good repair. All outside doors shall open outward and shall be self-closing. The use and storage of pesticides shall comply with all applicable State and federal laws and rules.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0145 RODENT AND ANIMAL CONTROL

Measures shall be taken by the owner or responsible individual to keep animals, fowl, rodents, and other vermin out of the facility. The storage and use of rodenticides shall comply with all applicable State and federal laws and rules.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0146 PREMISES

(a) Premises under the control of the owner shall be kept clean at all times. Waste materials, rubbish, other articles, or litter shall not be permitted to accumulate on the premises.
(b) Measures shall be taken to prevent the harborage and breeding of insects, rodents, and other vermin on premises.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0147 WATER SUPPLY

(a) The water supply used shall be in accordance with 15A NCAC 18A .1720 through .1728.
(b) Water samples for bacteriological analysis shall be collected at least annually by the Division of Marine Fisheries and submitted for analysis to the State Laboratory of Public Health or other laboratory that is certified in accordance with 10A NCAC 42C .0102, which is incorporated by reference including subsequent amendments.
(c) Cross-connections with unapproved water supplies are prohibited. Hot and cold running water under pressure shall be provided to food preparation, utensils, and handwashing areas and any other areas in which water is required for cleaning. Running water under pressure shall be provided in sufficient quantity to carry out all food preparation, utensil washing, hand washing, cleaning, and other water-using operations.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0148 ICE

(a) Ice shall be obtained from a water supply approved by the Division of Marine Fisheries pursuant to Rule .0147 of this Section and shall be stored and handled in a manner to prevent contamination and keep the ice clean.
(b) All equipment used in the handling of ice shall be used for no other purpose and shall be cleaned and sanitized at least once each day the facility is in operation.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0149 PLUMBING

(a) Plumbing fixtures shall be located to facilitate the flow of processing activities and to prevent the splashing of water on food-contact surfaces or cooked crustacea and crustacea meat.

(b) Fixtures, ducts, and pipes shall not be suspended over working areas.

(c) Handwash lavatories shall be located so that the supervisor can observe that employees wash and sanitize their hands before beginning work and after each interruption.

(d) Handwash lavatories shall be provided in the following locations:

(1) packing room or area;

(2) toilet or lounge area; and

(3) picking room.

(e) At least one handwash lavatory shall be provided for every 20 employees among the first 100 employees and at least one handwash lavatory shall be provided for every 25 employees in excess of the first 100 employees.

(f) Additional lavatories required by Paragraph (e) of this Rule shall be located in the picking room.

(g) A container shall be located near each handwash lavatory in the picking room and packing room or area to sanitize hands in a solution containing at least 100 parts per million (ppm) of available chlorine or other equally effective bactericide. A testing method or equipment shall be available and used to test chemical sanitizers to ensure minimum prescribed strengths.

(h) Soap and single service towels in protected dispensers shall be available near the handwash lavatories. Other hand drying devices that are found equally effective by the Division of Marine Fisheries may be used.

(i) All pre-cool rooms, picking rooms, packing rooms or areas, and cooking areas shall be provided with hose bibs and wash down hoses. Storage racks shall be provided to keep the hoses elevated off the floor when not in use.

(j) An automatically regulated hot-water system shall be provided to furnish a sufficient volume of hot water with a temperature of at least 130° F (54.5° C) to carry out all processing operations.

(k) All handwash lavatories and sinks shall be equipped with mixing faucets.

(l) A three-compartment sink with drainboards, large enough to wash the largest utensils used in the facility, shall be located in the picking room near the delivery shelf. One three-compartment sink, with drainboards, shall be provided for every 50 employees or fraction thereof.

(m) The floor drains in coolers shall not be connected directly to a sewer in processing or repacking facilities constructed after October 1, 1992.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0150 SEWAGE DISPOSAL

All sewage and other liquid wastes shall be disposed of in a public sewer system or in the absence of a public sewer system, by an on-site method approved by the Division of Marine Fisheries.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0151 TOILETS

(a) Toilets shall be provided by the owner or responsible person in the facility.

(b) Toilet tissue shall be provided by the owner or responsible person in a holder.

(c) Toilet room doors shall not open directly into processing areas of the facility and shall be self-closing.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0152 SOLID WASTE

(a) Cooked crustacea scrap and other putrescible wastes shall be removed from the premises at least daily. Other solid wastes shall be removed from the premises at least weekly.

(b) Scrap containers shall be removed from the picking room immediately after filling and placed in storage areas approved by the Division of Marine Fisheries.

(c) Scrap containers shall be non-corrosive and cleaned at least daily.
(d) Scrap containers shall be cleaned in an area approved by the Division.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0153 PERSONAL HYGIENE
(a) All employees shall wash their hands with soap and running water before beginning work and again after each interruption. Signs to this effect shall be posted in visible places in the facility by the owner or responsible individual, such that the signs can be seen by employees.
(b) All individuals handling cooked crustacea or crustacea meat shall sanitize their hands before beginning work and again after each interruption.
(c) All individuals employed or engaged in the handling, picking, or packing of cooked crustacea or crustacea meat shall wear clean, washable outer clothing.
(d) Employees shall not eat food, drink, or use tobacco in any form in the areas where cooked crustacea or crustacea meat are stored, processed, or handled.
(e) Any individual known to be a carrier of any disease that can be transmitted through the handling of cooked crustacea or crustacea meat or who has an infected wound or open lesion on any exposed portion of the body shall be prohibited from handling cooked crustacea or crustacea meat.
(f) Hair restraints shall be worn by all employees who handle cooked crustacea or crustacea meat.
(g) The arms of employees who pick or pack cooked crustacea or crustacea meat shall be bare to the elbow or covered with an arm guard that is easily cleanable and capable of being sanitized.
(h) Employees who pick and pack cooked crustacea or crustacea meat shall have clean fingernails free from nail polish and that are short enough to not extend past the fingertips. Employees shall not wear jewelry other than easily cleanable rings. The use of absorbent wraps or absorbent finger cots shall not be permitted.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0154 EMPLOYEES' PERSONAL ARTICLES
Employees' street clothing, aprons, gloves, and personal articles shall not be stored in rooms or areas described in Rule .0159(b) of this Section.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0155 SUPPLY STORAGE
Shipping containers, boxes, and other supplies shall be stored in a storage room or area. The storage room or area shall be kept clean.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0156 EQUIPMENT AND UTENSIL CONSTRUCTION
All processing equipment and utensils shall be smooth, easily cleanable, durable, and kept in good repair. The food-contact surfaces of equipment, utensils, and processing machinery shall be accessible for cleaning, non-toxic, non-corrosive, non-absorbent, and free of open seams.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0157 FACILITY AND EQUIPMENT SANITATION

(a) The walls and floors in the picking and packing areas shall be kept clean while operating and shall be sanitized at least daily and whenever there is evidence of contamination, such as splatter of crustacea meat or juices.

(b) All food-contact surfaces shall be washed, rinsed, and sanitized prior to starting operation each day and whenever there is evidence of contamination, such as splatter of crustacea meat or juices.

(c) Reusable picking containers and knives shall be washed, rinsed, and sanitized each time crustacea meat is delivered to the packing room.

(d) Sanitizing methods shall be as follows:

(1) by steam in a steam chamber or box equipped with an indicating thermometer located in the coldest zone, with exposure to a temperature of 170° F (77° C) for at least 15 minutes or to a temperature of 200° F (93° C) for at least five minutes.

(2) by immersion for at least one minute in the third compartment in clean hot water at a temperature of at least 170° F (77° C). A thermometer accurate to 3° F (1.5° C) shall be available to the compartment. Where hot water is used for bactericidal treatment, a booster heater that maintains a water temperature of at least 170° F (77° C) in the third compartment at all times when utensils are being washed shall be provided. The heating device may be integral with the immersion compartment.

(3) by immersion for at least one minute in, or exposure for at least one minute to a constant flow of, a solution containing not less than 100 ppm chlorine residual. Utensils and equipment that have to be washed in place shall be washed, rinsed, and sanitized.

(4) by other equivalent products and procedures approved in 21 CFR 178.1010 "Sanitizing solutions", which is hereby incorporated by reference including any subsequent amendments and editions. A copy of the reference material can be found at https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=17d119b223f9451322279713caa2e6ab&ty=HTML&h=L&mc=true&n=pt21.3.178&r=PART#se21.3.178_11010, at no cost. A testing method or equipment shall be available and used to test chemical sanitizers to ensure minimum prescribed strengths.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0158 EQUIPMENT STORAGE

Equipment and utensils that have been cleaned and sanitized shall be stored in a manner to protect against contamination and keep the equipment and utensils clean.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0159 SEPARATION OF OPERATIONS

(a) Facility design shall provide for continuous flow of raw materials and product to prevent contamination by exposure to areas involved in earlier processing steps, refuse, or other areas subject to contamination.

(b) The following processes shall be carried out in separate rooms or areas:

(1) raw crustacea receiving or refrigeration;
(2) crustacea cooking;
(3) cooked crustacea air-cool;
(4) cooked crustacea refrigeration;
(5) picking;
(6) packing;
(7) picked crustacea meat refrigeration;
(8) pasteurizing or thermal processing;
(9) machine picking;
(10) repacking; and
(11) other processes when carried out in conjunction with the cooking of crustacea or crustacea meat.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;

Amended Eff. April 1, 1997;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0160 RAW CRUSTACEA RECEIVING AND REFRIGERATION

(a) Only fresh crustacea shall be accepted for processing.

(b) Within two hours of receipt at the facility, crustacea shall be cooked or placed in a refrigerated area maintaining a temperature of 50° F (10° C) or below.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0161 CRUSTACEA COOKING

(a) The cooking area or room shall be under a roof located between the area for receiving raw crustacea and the air-cool room and shall be vented to assure the removal of steam.

(b) Crustacea shall be cooked in accordance with the following:

(1) Crabs shall be cooked under steam pressure until the internal temperature of the center-most crab reaches 235° F (112.8° C). Temperature shall be measured with an accurate, indicating thermometer having a range of 170-270° F (77-132° C).

(2) Other crustacea shall be cooked until the internal temperature of the center-most crustacean reaches 180° F (83° C) and is held at this temperature for one minute. Temperature shall be measured with an accurate, indicating thermometer. Crayfish shall be culled and cleaned prior to cooking.

(3) Nothing in this Rule shall prohibit any other cooking process that has been found equally effective and approved by the Division of Marine Fisheries.

(c) The retort shall be constructed to permit a working pressure of at least 20 pounds per square inch (psig). Steam inlet and venting shall provide a uniform and complete distribution of steam. Venting shall be sufficient to permit complete elimination of air from the retort. Drains and vents shall be located at least two feet above mean high tide.

(d) The retorts shall be equipped with:

(1) an accurate, indicating thermometer with a range that will include 170-270° F (77-132° C) and located with the sensor extending into the heat chamber;

(2) an operating pressure indicator, at least three inches in diameter, with a 0-30 psig range and located adjacent to the indicating thermometer; and

(3) a safety valve operational at 18-30 psig, located in the upper portion of the retort, protected from tampering, and designed to prevent injury to the operator.

(e) The boiler shall be of such capacity as to maintain 45 to 100 psig during cooking. The steam line from the boiler to the retort shall be at least one and one-fourth inch inside diameter.

(f) Overhead hoists shall be equipped with chain bags or other means of preventing foreign material from falling onto the cooked product.

(g) Retort cooking baskets shall be of stainless steel or equally impervious, non-corrosive material, and shall be designed to allow for equal steam disbursement, ease of handling, dumping, and cleaning.

(h) All construction or replacement of retorts after October 1, 1992 shall be "flow-through" type and open directly into the air-cool room or a protected passageway into the air-cool room.

(i) All construction of new or replacement retorts shall require a Process Validation Study Report approved by the Division prior to use based upon documentation of the ability to produce time-temperature results as required by the rules of this Section.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0162 COOKED CRUSTACEA AIR-COOL

(a) Cooked crustacea, after removal from the retort, shall be moved immediately to the cooked crustacea air-cool area to be air cooled to ambient temperature without being disturbed. Cooked crustacea shall be stored in the original cooking basket.

(b) The construction and arrangement of the air-cool room shall be designed to provide protection from contamination of the cooked crustacea. The air-cool room shall open directly into the cooked crustacea cooler or other protected area.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*

Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0163 COOKED CRUSTACEA REFRIGERATION

(a) The cooked crustacea cooler shall be large enough to store all cooked crustacea and maintain a minimum temperature of 40° F (4.4° C). The cooler shall open directly into the picking room or into a clean, enclosed area leading into the picking room.

(b) Cooked crustacea shall be stored at a temperature between 33° F (0.5° C) and 40° F (4.4° C) ambient air temperature if not immediately processed. The cooler shall be equipped with an accurate, operating thermometer.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0164 COOKED CRUSTACEA PICKING

(a) The picking operation shall be conducted in accordance with the rules of this Section such that crustacea meat does not become adulterated.

(b) All cooked crustacea shall be picked before a new supply is delivered to the picking table.

(c) Picked crustacea meat shall be delivered to the packing room at least every 90 minutes or upon the accumulation of five pounds per picker, whichever is sooner.

(d) Paper towels used at the picking table shall be discarded after initial use.

(e) If provided, bactericidal solutions at picking tables shall be maintained at 100 ppm chlorine solution or an equivalent bactericidal solution. A testing method or equipment shall be available and used to ensure minimum prescribed strengths of the chlorine solution or equivalent bactericidal solution.

(f) Handles of picking knives shall not be covered with any material.

(g) Crustacea shall be cooked and picked in the same permitted facility unless a written plan for interfacility shipment has been filed with the Division. The plan shall address and be approved based on the following:

(1) time-temperature requirements;
(2) shipping destination;
(3) handling;
(4) labeling;
(5) records;
(6) processing;
(7) sanitation; and
(8) HACCP plan.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Temporary Amendment Eff. July 1, 2000;
Temporary Rule Expired on March 12, 2001;
Amended Eff. August 1, 2002;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0165 PACKING

(a) Crustacea meat shall be packed in a container and iced and cooled to an internal temperature of 40° F (4.4° C) or below within two hours of receipt in the packing room.

(b) The storage of ice in the packing room shall be in an easily cleanable, non-corrosive, non-toxic container.

(c) Blending or combining of any of the following shall be prohibited:

(1) fresh crustacea meat;
(2) frozen crustacea meat;
(3) pasteurized crustacea meat; and
(4) crustacea meat packed in another facility.

(d) Clean shipping containers shall be provided by the owner or responsible individual for storing and shipping of packed crustacea meat.

(e) The return of overage of crustacea meat to a picker shall be prohibited.

(f) Washing of picked crustacea meat shall be under running potable water. The crustacea meat shall be drained prior to packing.

(g) Any substance added to cooked crustacea or crustacea meat shall be approved for use by the U.S. Food and Drug Administration and labeled according to federal and State rules and regulations.
(h) Only those individuals responsible for packing the crustacea or crustacea meat shall be allowed in the packing room or area.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0166 PICKED CRUSTACEA MEAT REFRIGERATION
(a) The refrigeration room or ice box shall be of sufficient size so that a full day's production, with ice, can be stored such that the crustacea meat does not become adulterated. The refrigeration room or ice box shall be equipped with an accurate, operating thermometer.
(b) Ice boxes shall be easily cleanable, non-corrosive, and non-toxic with an impervious lining and a drain.
(c) Picked crustacea meat shall be stored at 40° F (4.4° C) or below.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0167 DELIVERY WINDOW OR SHELF
A delivery window or a non-corrosive shelf shall be provided between the picking room and packing room or area. The delivery window shall be equipped with a shelf completely covered with smooth, non-corrosive metal or other material approved by the Division of Marine Fisheries and sloped to drain towards the picking room.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0168 SINGLE-SERVICE CONTAINERS
(a) Single-service containers used for packing or repacking cooked crustacea and crustacea meat shall be made from food-safe materials approved by the United States Food and Drug Administration.
(b) Containers shall not be reused for packing or repacking cooked crustacea and crustacea meat.
(c) No person shall use containers bearing a permit number other than the number assigned to the facility.
(d) Each container or lid shall be legibly impressed, embossed, or lithographed with the name and address of the original packer, repacker, or distributor. The original packer's or repacker's permit number preceded by the state abbreviation shall be legibly impressed, embossed, or lithographed on each container or lid.
(e) Each container or lid shall be permanently and legibly identified with a code date.
(f) All containers and lids shall be stored and handled in a manner to prevent contamination and keep them clean, sanitized by a procedure as stated in Rule .0157 of this Section, and drained prior to filling.
(g) All containers shall be sealed so that tampering can be detected. The words "Sealed For Your Protection" or equivalent shall be legibly displayed on the container or lid.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Amended Eff. August 1, 1998; February 1, 1997;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0169 FREEZING
(a) If crustacea or crustacea meat is to be frozen, the code date shall be followed by the letter "F."
(b) Frozen crustacea or crustacea meat shall be stored at a temperature of 0° F (-18° C) or less.
(c) The frozen storage rooms shall be equipped with an accurate, operating thermometer.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Amended Eff. August 1, 2002; April 1, 1997;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0170 SHIPPING

Cooked crustacea and crustacea meat shall be shipped between 33° F (0.5° C) and 40° F (4.4° C). Frozen crustacea products shall be shipped at 0° F (-18° C) or below.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0171 WHOLE CRUSTACEA OR CRUSTACEA PRODUCTS

Whole crustacea, claws, or any other crustacea products shall be prepared, packaged, and labeled in accordance with the rules of this Section.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0172 COOKED CLAW SHIPPING CONDITIONS

(a) Vehicles used to transport cooked claws shall be mechanically refrigerated, enclosed, tightly constructed, kept clean, and equipped with an operating thermometer.
(b) Cooked crab claws shall be stored and transported between 33° F (0.5° C) and 40° F (4.4° C) ambient air temperature.
(c) All vehicles shall be approved by the Division of Marine Fisheries prior to use.
(d) Cooked claw shipping containers shall be marked for intended use, cleaned, and sanitized prior to use and shall meet the requirements in Rule .0156 of this Section.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0173 REPACKING

(a) Crustacea meat for repacking that is processed in North Carolina shall comply with Rules .0134 through .0187 of this Section. Crustacea meat for repacking that is processed outside of North Carolina shall comply with Rule .0182 of this Section.
(b) Upon request of the Division of Marine Fisheries, the repacker shall provide the Division a current written list of all sources of crustacea meat used for repacking.
(c) Repacking of crustacea meat:
- (1) Crustacea meat shall not exceed 40° F (4.4° C) during the repacking process.
- (2) Repacking shall be conducted separately by time or space from the routine crustacea meat picking and packing process.
- (3) The food contact surfaces and utensils utilized in the repacking process shall be cleaned and sanitized prior to repacking and thereafter on 30-minute intervals during repacking.
- (4) Repacked crustacea meat shall be maintained at or below 40° F (4.4° C).
- (5) Blending or combining of any of the following shall be prohibited:
  - (A) fresh crustacea meat.
  - (B) frozen crustacea meat.
  - (C) pasteurized crustacea meat.
  - (D) crustacea meat packed in another facility.
- (6) Crustacea meat shall not be repacked more than one time.
- (7) All empty containers from which crustacea meat was removed and repacked shall be rendered unusable.

(d) Labeling of repacked crustacea meat:
- (1) Each container shall be legibly embossed, impressed, or lithographed with the repacker's or the distributor's name and address.
- (2) Each container shall be legibly embossed, impressed, or lithographed with the repacker's certification number followed by the letters "RP."
- (3) Each container shall be permanently and legibly identified with a code indicating the repack date.
- (4) Each container shall be sealed so that tampering can be detected.

(5) Each container of foreign crustacea meat that has been repacked outside of North Carolina and shipped into North Carolina shall be labeled in accordance with federal labeling requirements.

(e) Records shall be kept for all purchases of crustacea meat for repacking and sales of repacked meat for one year. The records shall be available for inspection by the Division.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Amended Eff. August 1, 2002; April 1, 1997;
Readopted Eff. August 23, 2022.

15A NCAC 18A .0174 PASTEURIZATION PROCESS CONTROLS - THERMOMETERS

(a) All pasteurizing equipment shall have a time-temperature recording thermometer with a temperature controller (combined or separately) and an indicating thermometer. The thermometers shall be located to give a true representation of the operating temperature of the water bath. The recording thermometer chart shall be at least a 12-hour chart and at least 10 inches in diameter.

(b) The recording thermometer shall be installed so that it will be protected from vibration and from striking by loading operations or facility traffic. The thermometer mechanism shall be protected from moisture under prevailing conditions. The thermometer case shall not be opened during the pasteurizing cycle, except for temperature check or for emergency or repair. A record shall be made when the thermometer case has been opened.

(c) The recording thermometer shall have a range of at least 120-220° F (48.9-104.4° C). It shall be accurate within plus or minus 1° F between 160° F (71° C) and 200° F (93° C). The chart shall be scaled at a maximum of 2° F intervals in the range of 160° F (71° C) and 200° F (93° C).

(d) The indicating thermometer shall be a thermometer with an accuracy and readability of plus or minus 1° F between 160° F (71° C) and 200° F (93° C). The thermometer shall be protected against damage.

(e) The recording thermometer shall be equipped with a spring-operated or electrically operated clock. The recorded elapsed time as indicated by the chart rotation shall not exceed the true elapsed time as shown by an accurate watch. The rotating chart support shall be provided with pins upon which the chart shall be affixed by puncturing the chart.

(f) The pasteurization unit shall not be operated without a recording thermometer chart in place, the pen in contact with the chart, and an inked record being made of the operating time-temperature cycle. Falsification of a thermometer chart by an individual with access to or that is an operator of a pasteurization unit shall constitute failure to comply with the requirements of this Paragraph. A permanent file of the used thermometer charts shall be maintained by the pasteurizer and kept available for inspection by the Division of Marine Fisheries for a period of one year. The following information shall be recorded within the confines of the pen markings after the pasteurization cycle has been completed:

(1) date of pasteurization;
(2) quantity of each batch pasteurized (pounds of crustacea meat or number and size of containers);
(3) processor's code of each pack;
(4) if the pasteurizer processes crustacea meat for someone else, then the packer's name, address, and permit number shall be recorded. A copy of the recording chart shall be provided to the owner of the crustacea meat;
(5) notation of mechanical or power failure or opening of the recording thermometer case for adjustment or repair during the pasteurizing cycle;
(6) after the temperature in the water bath has been reached and during the holding time, as set forth in Rule .0176 of this Section, the reading of the indicating thermometer and the time of reading shall be recorded on the chart; and
(7) signature of the pasteurizer operator.

(g) A constant flow steam control valve is required, if steam is used as a source of heat.

(h) The water bath shall be provided with effective agitation to maintain a uniform temperature.

(i) Other technologies shall be approved by the Division if they are shown to provide equivalent data, information, and records as required in this Rule.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Amended Eff. April 1, 1997;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0175 PREPARATION OF CRUSTACEA MEAT FOR PASTEURIZATION

The preparation of crustacea meat for pasteurization shall be in compliance with the following:

(1) crustacea meat shall be prepared in compliance with Rules .0134 through .0183 of this Section;
(2) the containers of crustacea meat shall be sealed as quickly as possible after the crustacea meat is picked; and

(3) the sealed containers of crustacea meat shall be placed in ice and refrigerated immediately after sealing until pasteurized.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Amended Eff. April 1, 1997;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0176 PASTEURIZATION OF CRUSTACEA MEAT

(a) All pasteurization operations shall require a Process Validation Study Report approved by the Division of Marine Fisheries prior to operation based upon documentation of the ability to produce time-temperature results as required by the rules of this Section.

(b) The pasteurization of crustacea meat shall be conducted in compliance with the following procedures:

(1) the minimum pasteurization specifications shall be heating every particle of crustacea meat in a hermetically-sealed container to a temperature of at least 185° F (85° C) and holding it continuously at or above this temperature for at least one minute at the geometric center of a container in equipment being operated in compliance with the Process Validation Study Report. A copy of the procedures for operating the pasteurizing equipment shall be posted adjacent to the pasteurization vat. The pasteurizer shall keep the report on file and shall provide the Division a copy of such report;

(2) alteration of the equipment or loading of containers shall require a new Process Validation Study Report;

(3) the containers of crustacea meat shall be cooled to 50° F (10° C) or below within three hours of the completion of pasteurization; and

(4) refrigerated storage shall be provided for the cooled crustacea meat and shall maintain a storage temperature at or below 38° F (3.3° C).

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Amended Eff. August 1, 1998;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0177 LABELING OF PASTEURIZED CRUSTACEA MEAT

Labeling of pasteurized crustacea meat shall be in compliance with the following:

(1) the label used shall legibly identify the contents of the container as pasteurized crustacea meat;

(2) each container shall be permanently and legibly identified with a code indicating the batch and day of processing;

(3) the words "Perishable-Keep Under Refrigeration" or equivalent shall be legibly displayed on the container; and

(4) the original packer's or repacker's permit number preceded by the state abbreviation shall be legibly impressed, embossed, or lithographed on each container. Each container shall be legibly impressed, embossed, or lithographed with the name and address of the original packer, repacker, or distributor.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0178 INTERFACILITY PASTEURIZATION PROCEDURES

No person shall initiate interfacility pasteurization of crustacea meat without prior written approval by the Division of Marine Fisheries. Interfacility pasteurization of crustacea meat shall be in compliance with the following:

(1) crustacea meat shall be packed, labeled, and refrigerated in compliance with Rules .0134 and .0136 through .0182 of this Section and shall originate only from a facility permitted in accordance with Rule .0135 of this Section. Records shall be maintained to identify each batch of crustacea meat pasteurized;

(2) crustacea meat shall be shipped in an enclosed, easily cleanable vehicle at a temperature of 40° F (4.4° C) or below; and

(3) crustacea meat shall be pasteurized in compliance with Rules .0175 through .0177 of this Section. The pasteurizer shall provide a copy of each pasteurization chart to the original packer.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0179 RECALL PROCEDURE

Each owner of a cooked crustacea or crustacea meat facility or repacker facility shall keep on file a written product recall procedure. A copy of this recall procedure shall be provided to the Division of Marine Fisheries.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0180 SAMPLING AND TESTING

Samples of cooked crustacea or crustacea meat may be taken and examined by the Division of Marine Fisheries at any time or place. Samples of cooked crustacea or crustacea meat shall be furnished by the owner or operator of facilities, trucks, carriers, stores, restaurants, and other places where cooked crustacea or crustacea meat are sold.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0181 EMBARGO OR DISPOSAL OF COOKED CRUSTACEA OR CRUSTACEA MEAT

(a) When it has been determined by the Division of Marine Fisheries that cooked crustacea or crustacea meat have not been stored, transported, handled, cooked, picked, packed, or offered for sale in compliance with this Section, the cooked crustacea or crustacea meat shall be deemed adulterated.
(b) Cooked crustacea or crustacea meat determined to be adulterated or misbranded shall be subject to embargo or disposal by the Division in accordance with G.S. 113-221.4.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 113-221.4, 143B-289.52;*
Eff. October 1, 1992;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0182 BACTERIOLOGICAL AND CONTAMINATION STANDARDS

(a) Cooked crustacea or crustacea meat shall not exceed Escherichia coli Most Probable Number (MPN) of 36 per 100 grams of sample or exceed a standard plate count of 100,000 per gram.
(b) Pasteurized crustacea meat shall contain no Escherichia coli or fecal coliform. Samples of pasteurized crustacea meat, taken within 24 hours of pasteurizing, shall not have a standard plate count of more than 3,000 per gram.
(c) Thermally processed crustacea or crustacea meat shall not exceed Escherichia coli MPN of 36 per 100 grams of sample or exceed a standard plate count of 100,000 per gram.
(d) Cooked crustacea or crustacea meat shall be handled in accordance with the rules of this Section.
(e) Cooked crustacea or crustacea meat not complying with the standards set forth in this Rule may be deemed adulterated by the Division of Marine Fisheries according to the severity of exceedance and the expected threat to public health.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. October 1, 1992;
Amended Eff. August 1, 1998; February 1, 1997;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0183 ALTERNATIVE LABELING

A durable label, such that it will not fade or deteriorate, that is permanently affixed to the container may be used to meet any labeling requirement in this Section.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. August 1, 1998;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0184 THERMAL PROCESSING CONTROLS - THERMOMETERS

(a) All thermal processing equipment shall have a time-temperature recording thermometer with a temperature controller (combined or separately) and an indicating thermometer. The thermometers shall be located to give a true representation of the operating temperature of the process. The recording thermometer chart shall be at least a 12-hour chart and at least 10 inches in diameter.

(b) The recording thermometer shall be installed so that it will be protected from vibration and from striking by loading operations or facility traffic. The thermometer mechanism shall be protected from moisture under prevailing conditions. The thermometer case shall not be opened during the thermal processing cycle, except for temperature check or for emergency or repair. A record shall be made when the thermometer case has been opened.
(c) The recording thermometer shall have a range of at least 120-220° F (48.9-104.4° C). It shall be accurate within plus or minus 1° F between 160° F (71° C) and 200° F (93° C). The chart shall be scaled at a maximum of 2° F intervals in the range of 160° F (71° C) and 200° F (93° C).
(d) The indicating thermometer shall be a thermometer with an accuracy and readability of plus or minus 1° F between 160° F (71° C) and 200° F (93° C). The thermometer shall be protected against damage.
(e) The recording thermometer shall be equipped with a spring-operated or electrically operated clock. The recorded elapsed time as indicated by the chart rotation shall not exceed the true elapsed time as shown by an accurate watch. The rotating chart support shall be provided with pins upon which the chart shall be affixed by puncturing the chart.
(f) The thermal processing unit shall not be operated without a recording thermometer chart in place, the pen in contact with the chart, and an inked record being made of the operating time-temperature cycle. Falsification of a thermometer chart by an individual with access to or that is an operator of a thermal processing unit shall constitute failure to comply with the requirements of this Paragraph. A permanent file of the used thermometer charts shall be maintained by the thermal processor and kept available for inspection by the Division of Marine Fisheries for a period of one year. The following information shall be recorded within the confines of the pen markings after the thermal processing cycle has been completed:

(1) date of thermal processing;
(2) quantity of each batch thermally processed (pounds of crustacea meat or number and size of containers);
(3) thermal processor's code of each pack;
(4) if the thermal processor processes crustacea meat for someone else, then the packer's name, address, and permit number shall be recorded. A copy of the recording chart shall be provided to the owner of the crustacea meat;
(5) notation of mechanical or power failure or opening of the recording thermometer case for adjustment or repair during the thermal processing cycle;
(6) after the temperature in the thermal process has been reached and during the holding time, as set forth in Rule .0185 of this Section, the reading of the indicating thermometer and the time of reading shall be recorded on the chart; and
(7) signature of the thermal process operator.

(g) A constant flow steam control valve is required, if steam is used as a source of heat.
(h) The thermal processing unit shall be provided with effective and uniform temperature.
(i) Other technologies shall be approved by the Division if they are shown to provide equivalent data, information, and records as required in this Rule.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. April 1, 1997;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0185 THERMAL PROCESSING OF CRUSTACEA AND CRUSTACEA MEAT

(a) All thermal processing operations shall require a Process Validation Study Report approved by the Division of Marine Fisheries prior to operation based upon documentation of the ability to produce time-temperature results as required by the rules of this Section.
(b) The thermal processing of crustacea or crustacea meat shall be conducted in compliance with the following procedures:

(1) the minimum thermal processing specifications shall be the heating of previously cooked crustacea or crustacea meat to a desired temperature for a specified time at the geometric center of a container in equipment being operated in compliance with the Process Validation Study Report. A copy of the procedures for operating the thermal processing equipment shall be posted adjacent to the thermal processing unit. The thermal processor shall keep the report on file and shall provide the Division a copy of such report;
(2) alteration of the equipment or loading of containers shall require a new Process Validation Study Report;
(3) the containers of crustacea or crustacea meat shall be cooled to 50° F (10° C) or below within three hours of the completion of the thermal process; and
(4) refrigerated storage shall be provided for the cooled crustacea or crustacea meat and shall maintain a storage temperature at or below 36° F (2.2° C).

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. August 1, 1998;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0186 LABELING OF THERMALLY PROCESSED CRUSTACEA OR CRUSTACEA MEAT

Labeling of thermally processed crustacea or crustacea meat shall be in compliance with the following:

(1) the label used shall legibly identify the contents of the container as thermally processed crustacea or crustacea meat;
(2) each container shall be permanently and legibly identified with a code indicating the batch and day of processing;
(3) the words "Perishable-Keep Under Refrigeration" or equivalent shall be legibly displayed on the container; and
(4) the original packer's or repacker's permit number preceded by the state abbreviation shall be legibly impressed, embossed, or lithographed on each container. Each container shall be legibly impressed, embossed, or lithographed with the name and address of the original packer, repacker, or distributor.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. April 1, 1997;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0187 INTERFACILITY THERMAL PROCESSING PROCEDURES

Interfacility thermal processing of crustacea or crustacea meat shall be in compliance with the following:

(1) crustacea or crustacea meat shall be packed, labeled, and refrigerated in compliance with Rules .0134 through .0187 of this Section. Records shall be maintained to identify each batch of crustacea or crustacea meat thermally processed;
(2) crustacea or crustacea meat shall be shipped in an enclosed, easily cleanable vehicle at a temperature of 40° F (4.4° C) or below; and
(3) crustacea or crustacea meat shall be thermally processed in compliance with Rules .0184 through .0187 of this Section. The thermal processor shall provide a copy of each thermal processing chart to the original packer.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. August 1, 1998;
Readopted Eff. April 1, 2022.

15A NCAC 18A .0188 HAZARD ANALYSIS

Each dealer shall conduct a hazard analysis to determine the food safety hazards that are reasonably likely to occur for each kind of crustacea or crustacea meat product processed by that dealer and to identify the preventative measures that the dealer can apply to control those hazards.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. August 1, 2000;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0189 HACCP PLAN

Each dealer shall have and implement a written HACCP plan. The owner or authorized designee shall sign the plan when implemented and after any modification. The plan shall be reviewed at least annually and updated if necessary. The plan shall, at a minimum:

(1) list the food safety hazards that are reasonably likely to occur;
(2) list the critical control points for each of the food safety hazards;
(3) list the critical limits that must be met for each of the critical control points;
(4) list the procedures, and frequency thereof, that will be used to monitor each of the critical control points to ensure compliance with the critical limits;
(5) list any corrective action plans to be followed in response to deviations from critical limits at critical control points;
(6) provide a record keeping system that documents critical control point monitoring; and
(7) list the verification procedures, and frequency thereof, that the dealer will use.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. August 1, 2000;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0190 SANITATION MONITORING REQUIREMENTS

Each dealer shall monitor, at a minimum, the following sanitation items:

(1) safety of water;
(2) condition and cleanliness of food contact surfaces;
(3) prevention of cross contamination;

(4) maintenance of hand washing, hand sanitizing, and toilet facilities;
(5) protection of crustacea or crustacea meat, crustacea or crustacea meat packaging materials, and food contact surfaces from adulteration;
(6) proper labeling, storage, and use of toxic compounds;
(7) control of employees with adverse health conditions; and
(8) exclusion of pests from the facility.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. August 1, 2000;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0191 MONITORING RECORDS

Monitoring records of critical control points and the eight key sanitation items shall be recorded, as specified in the HACCP Plan, and signed and dated when recorded. The eight key sanitation items are set forth in 21 CFR 123.11 "Sanitation Control Procedures", which is incorporated by reference including any subsequent amendments and editions. A copy of the reference material can be found at https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-123/subpart-A/section-123.11, at no cost. The records shall be reviewed by the owner or designee within one week of recording.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. August 1, 2000;
Readopted Eff. April 1, 2022.

SECTION .0300 – SANITATION OF SHELLFISH - GENERAL

15A NCAC 18A .0302 PERMITS

(a) It shall be unlawful to operate any of the following facilities without first obtaining a Shellfish Dealer Permit and Certificate of Compliance from the Division of Marine Fisheries:
(1) depuration facilities;
(2) repacking plants;
(3) shellstock plants; and
(4) shucking and packing plants.

(b) It shall be unlawful to operate as a shellstock dealer without first obtaining a Shellfish Dealer Permit and Certificate of Compliance from the Division.

(c) It shall be unlawful to operate as a reshipper without first obtaining a Shellfish Dealer Permit and Certificate of Compliance from the Division if shellfish are purchased and shipped out of state.

(d) Approval for wet storage of shellstock shall be granted only to persons permitted pursuant to this Rule.

(e) Application for a permit shall be submitted in writing to the Division. Application forms may be obtained from the Division, P.O. Box 769, 3441 Arendell Street, Morehead City, NC 28557.

(f) No permit shall be issued by the Division until an inspection by the Division shows that the facility and equipment comply with all applicable Rules in Sections .0300 through .0800 of this Subchapter. The owner or responsible person shall sign the completed inspection sheet to acknowledge receipt of the inspection sheet.

(g) All permits shall be posted in a conspicuous place in the facility.

(h) All permits shall expire on April 30 of each year and are non-transferrable.

(i) Plans and specifications for proposed new construction, expansion of operations, or changes in operating processes shall be submitted to the Division for review and approval prior to beginning construction or making a change.

(j) A permit may be revoked or suspended in accordance with 15A NCAC 03O .0504.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. February 1, 1987;
Amended Eff. April 1, 1997;
Readopted Eff. March 15, 2023.

15A NCAC 18A .0303 RELAYING PERMITS

History Note: *Authority G.S. 130A-230;*
Eff. February 1, 1987;

Amended Eff. September 1, 1990;
Repealed Eff. March 15, 2023.

15A NCAC 18A .0304 DEPURATION HARVESTING PERMITS

History Note: *Authority G.S. 130A-230;*
Eff. February 1, 1987;
Amended Eff. September 1, 1990;
Repealed Eff. June 1, 2022.

SECTION .0400 – SANITATION OF SHELLFISH - GENERAL OPERATION STANDARDS

15A NCAC 18A .0425 DEALER TAGS

(a) Consistent with the rules of this Section, it shall be unlawful to possess shellstock without a dealer tag or label affixed after the shellstock is processed or shipped by the initial certified shellfish dealer. The tag shall be durable, waterproof, and a minimum of two and five-eighths inches by five and one-fourth inches in size. It shall be unlawful for the tag to fail to contain legible information arranged in the specific order as follows:

(1) the dealer's name, address, and certification number assigned by the appropriate shellfish control agency;
(2) the original shipper's certification number;
(3) the harvest date, or if depurated, the date of depuration processing, or if wet stored, the original harvest date and the final harvest date, which is the date removed from wet storage;
(4) if wet stored or depurated, the wet storage or depuration cycle or lot number. The wet storage lot number shall begin with the letter "W";
(5) the most precise identification of the harvest location as is practicable, including the initials of the state of harvest, and the state or local shellfish control authority's designation of the growing area by indexing, administrative, or geographic designation. If the authority in another state has not indexed growing areas, then a geographical or administrative designation shall be used (e.g., Long Bay, shellfish lease or franchise number, or lot number);
(6) the type and quantity of shellstock;
(7) the following statements in bold, capitalized font:
    (A) "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON FILE, IN CHRONOLOGICAL ORDER, FOR 90 DAYS."; and
    (B) "RETAILERS; DATE WHEN LAST SHELLFISH FROM THIS CONTAINER SOLD OR SERVED (INSERT DATE) _____.";
(8) the following statement, or equivalent:
"Consumer Advisory
Eating raw oysters, clams, or mussels may cause severe illness. People with the following conditions are at especially high risk: liver disease, alcoholism, diabetes, cancer, stomach or blood disorder, or weakened immune system. Ask your doctor if you are unsure of your risk. If you eat raw shellfish and become sick, see a doctor immediately."; and
(9) the following statement, or equivalent:
"Keep Refrigerated".

(b) The dealer tag or label shall remain attached to the shellstock container until the container is empty and thereafter shall be kept on file, in chronological order, for 90 days.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. February 1, 1987;
Amended Eff. April 1, 1997; January 4, 1994; December 1, 1987;
Temporary Amendment Eff. October 12, 1998; February 1, 1998;
Amended Eff. April 1, 1999;
Readopted Eff. March 15, 2023.

15A NCAC 18A .0431 STANDARDS FOR AN APPROVED SHELLFISH GROWING AREA

History Note: *Authority G.S. 130A-230;*
Eff. February 1, 1987;
Repealed Eff. May 1, 2021.

SECTION .0700 – OPERATION OF DEPURATION (MECHANICAL PURIFICATION) FACILITIES

15A NCAC 18A .0704 LABORATORY PROCEDURES

(a) All laboratory analyses used to evaluate the effectiveness of the depuration process shall be performed by a laboratory found by a Food and Drug Administration (FDA) Shellfish Laboratory Evaluation Officer or by an FDA-certified State Shellfish Laboratory Evaluation Officer to conform or provisionally conform to the requirements established under the National Shellfish Sanitation Program (NSSP).

(b) All methods for the analysis of depuration process water and shellfish that are used to evaluate the effectiveness of the depuration process shall be cited in the latest edition of the NSSP Guide for the Control of Molluscan Shellfish, Section IV: Guidance Documents, subsection Approved NSSP Laboratory Tests, which is incorporated by reference, including subsequent amendments and editions, and available at https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp at no cost, or validated for use by the NSSP under the Constitution, Bylaws and Procedures of the Interstate Shellfish Sanitation Conference, which is incorporated by reference, including subsequent amendments and editions, and available at https://www.issc.org/constitution-bylaws-procedures, at no cost. If there is an immediate or ongoing critical need for a method and no method approved for use within the NSSP exists, the following may be used:

(1) a validated Association of Analytical Communities, Bacteriological Analysis Manual, or Environmental Protection Agency method; or

(2) an Emergency Use Method as set forth in the latest approved edition of the NSSP Guide for the Control of Molluscan Shellfish.

(c) The laboratory shall conduct examinations of depuration process water and shellfish and conduct special examinations if necessary or required, in accordance with Rules .0706 through .0709 of this Section.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. February 1, 1987;
Amended Eff. September 1, 1991; September 1, 1990;
Readopted Eff. May 1, 2021.

SECTION .0900 - CLASSIFICATION OF SHELLFISH GROWING WATERS

15A NCAC 18A .0901 DEFINITIONS

The following definitions shall apply to this Section.

(1) "Approved" means shellfish growing waters determined suitable by the Division for the harvesting of shellfish for direct market purposes.

(2) "Closed-system marina" means a marina constructed in canals, basins, tributaries, or any other area with restricted tidal flow.

(3) "Colony forming unit" means an estimate of the number of viable bacteria cells in a sample as determined by a plate count.

(4) "Commercial marina" means a marina that offers one or more of the following services: fuel, transient dockage, haul-out facilities, or repair services.

(5) "Conditionally approved" means shellfish growing waters that are subject to predictable intermittent pollution but that may be used for harvesting shellfish for direct market purposes when management plan criteria are met.

(6) "Division" means the Division of Marine Fisheries or its authorized agent.

(7) "Estimated 90^{th} percentile" means a statistic that measures the variability in a sample set that shall be calculated by:

(a) calculating the arithmetic mean and standard deviation of the sample result logarithms (base 10);

(b) multiplying the standard deviation in Sub-Item (a) of this Item by 1.28;

(c) adding the product from Sub-Item (b) of this Item to the arithmetic mean; and

(d) taking the antilog (base 10) of the results from Sub-Item (c) of this Item to determine the estimated 90^{th} percentile.

(8) "Fecal coliform" means bacteria of the coliform group that will produce gas from lactose in a multiple tube procedure liquid medium (EC or A-1) within 24 plus or minus two hours at 44.5° C plus or minus 0.2° C in a water bath.

(9) "Geometric mean" means the antilog (base 10) of the arithmetic mean of the sample result logarithm.

(10) "Marina" means any water area with a structure (such as a dock, basin, floating dock) that is utilized for docking or otherwise mooring vessels and constructed to provide temporary or permanent docking space for more than 10 boats.

(11) "Marine biotoxins" means any poisonous compound produced by marine microorganisms and accumulated by shellstock.

(12) "Median" means the middle number in a given sequence of numbers, taken as the average of the two middle numbers when the sequence has an even number of numbers.
(13) "Most probable number (MPN)" means a statistical estimate of the number of bacteria per unit volume and is determined from the number of positive results in a series of fermentation tubes.
(14) "National Shellfish Sanitation Program (NSSP)" means the cooperative federal-state-industry program for the sanitary control of shellfish that is adequate to ensure that the shellfish produced in accordance with the NSSP Guide For The Control Of Molluscan Shellfish will be safe and sanitary.
(15) "Open-system marina" means a marina constructed in an area where tidal currents have not been impeded by natural or man-made barriers.
(16) "Private marina" means any marina that is not a commercial marina as defined in this Rule.
(17) "Prohibited" means shellfish growing waters unsuitable for the harvesting of shellfish for direct market purposes.
(18) "Public health emergency" means any condition that may immediately cause shellfish waters to be unsafe for the harvest of shellfish for human consumption.
(19) "Restricted" means shellfish growing waters from which shellfish may be harvested only by permit and are subjected to a treatment process through relaying or depuration that renders the shellfish safe for human consumption.
(20) "Sanitary survey" means the written evaluation of factors that affect the sanitary quality of a shellfish growing area including sources of pollution, the effects of wind, tides, and currents in the distribution and dilution of polluting materials, and the bacteriological quality of water.
(21) "Shellfish" means the term as defined in G.S. 113-129, except the term shall not include scallops when the final product is the shucked adductor muscle only.
(22) "Shellfish growing area" means a management unit that defines the boundaries of a sanitary survey and that is used to track the location where shellfish are harvested.
(23) "Shellfish growing waters" means marine or estuarine waters that support or could support shellfish life.
(24) "Shellstock" means live molluscan shellfish in the shell.
(25) "Shoreline survey" means an in-field inspection by the Division to identify and evaluate any potential or actual pollution sources or other environmental factors that may impact the sanitary quality of a shellfish growing area.
(26) "Systematic random sampling strategy" means a sampling strategy designed to assess the bacteriological water quality of shellfish growing waters impacted by non-point sources of pollution and scheduled sufficiently far in advance to support random collection with respect to environmental conditions.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. June 1, 1989;
Amended Eff. August 1, 1998; February 1, 1997; September 1, 1990;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0902 CLASSIFICATION OF SHELLFISH GROWING WATERS

(a) All shellfish growing waters shall be classified by the Division of Marine Fisheries as to their suitability for shellfish harvesting. Shellfish growing waters shall be designated with one of the following classifications:
(1) approved;
(2) conditionally approved;
(3) restricted; or
(4) prohibited.

(b) Maps showing the classification of shellfish growing waters shall be maintained by the Division.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. June 1, 1989;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0903 SANITARY SURVEY

(a) Shellfish growing waters shall be divided into shellfish growing areas by the Division of Marine Fisheries. Maps showing the boundaries of these shellfish growing areas shall be maintained by the Division and can be found at: https://deq.nc.gov/polluted-area-proclamations.

(b) Except in shellfish growing areas where all shellfish growing waters are classified as prohibited, the Division shall complete a sanitary survey report for each shellfish growing area at least once every three years.

(c) A sanitary survey report shall include the following:
(1) a shoreline survey.

(2) an evaluation of meteorological, hydrodynamic, and geographic factors that may affect distribution of pollutants.
(3) a microbiological survey to assess water quality. A microbiological survey shall include the collection of water samples and their analysis for fecal coliforms. The number and location of sampling stations shall be selected to produce the data necessary to effectively evaluate all point and non-point pollution sources identified during the shoreline survey. A minimum of six samples shall be collected annually from each designated sampling station.
(4) a determination of the appropriate classification for all shellfish growing waters within the shellfish growing area in accordance with Rule .0902 of this Section.

(d) A sanitary survey report shall be required to designate any portion of a shellfish growing area with a classification other than prohibited, or for a reclassification from:
(1) prohibited to any other classification;
(2) restricted to conditionally approved or approved; or
(3) conditionally approved to approved.

All other reclassifications may be made without a sanitary survey.

(e) In each calendar year that a shellfish growing area is not evaluated with a sanitary survey, a written annual evaluation report shall be completed by the Division and shall include the following:
(1) a microbiological survey to assess water quality as set forth in Subparagraph (c)(3) of this Rule.
(2) an evaluation of changes in pollution source impacts that may affect the classifications of the shellfish growing area.

If the annual evaluation determines conditions have changed and a classification for shellfish growing waters is incorrect, the Division shall initiate action to reclassify the shellfish growing waters in accordance with Rule .0902 of this Section.

(f) Sanitary survey reports and annual evaluation reports shall be maintained by the Division.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. June 1, 1989;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0904 APPROVED WATERS

Shellfish growing waters classified as approved for shellfish harvesting shall meet the following criteria as indicated by a sanitary survey, as set forth in Rule .0903 of this Section:
(1) the shoreline survey indicates there are no significant point sources of pollution;
(2) the area is not contaminated with fecal material, pathogenic microorganisms, poisonous or deleterious substances, or marine biotoxins that may render consumption of the shellfish hazardous; and
(3) the microbiological survey, as set forth in Rule .0903(c)(3) of this Section, indicates the bacteriological water quality does not exceed the following standards based on results generated using the systematic random sampling strategy:
(a) a median fecal coliform most probable number (MPN) or geometric mean MPN of 14 per 100 milliliters;
(b) a median fecal coliform colony-forming units (CFU) or geometric mean CFU of 14 per 100 milliliters;
(c) an estimated 90th percentile of 43 MPN per 100 milliliters for a five-tube decimal dilution test; or
(d) an estimated 90th percentile of 31 CFU per 100 milliliters for a membrane filter membrane-Thermotolerant Escherichia coli (mTEC) test.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. June 1, 1989;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0905 CONDITIONALLY APPROVED WATERS

(a) Shellfish growing waters may be classified as conditionally approved if the Division of Marine Fisheries determines the following:
(1) the sanitary survey indicates the shellfish growing waters will not meet the approved waters classification criteria as set forth in Rule .0904 of this Section under all conditions, but will meet those criteria under certain conditions;
(2) the conditions when the shellfish growing waters will meet the approved waters classification criteria are known and predictable;
(3) the public bottom within those shellfish growing waters support a population of harvestable shellfish; and
(4) staff are available to carry out the requirements defined in the management plan, as set forth in Paragraph (b) of this Rule.

(b) A written management plan shall be developed by the Division for conditionally approved areas. This plan shall define the conditions under which the shellfish growing waters may be open to the harvest of shellfish. If the conditions defined in the management plan are not met, the Division shall immediately close the shellfish growing waters to shellfish harvesting.

(c) All conditionally approved growing waters shall be re-evaluated on an annual basis. A written report summarizing this re-evaluation shall be produced and shall include the following:

(1) an evaluation of compliance with management plan criteria;
(2) a review of the cooperation of all persons involved;
(3) an evaluation of bacteriological water quality in the growing waters with respect to the standards for the classification; and
(4) an evaluation of critical pollution sources.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. June 1, 1989;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0906 RESTRICTED AREAS

(a) Shellfish growing waters may be classified as restricted if:

(1) a sanitary survey indicates there are no significant point sources of pollution; and
(2) levels of fecal pollution, human pathogens, or poisonous or deleterious substances are at such levels that shellstock can be made safe for human consumption by either relaying or depuration.

(b) Relaying of shellfish shall be conducted in accordance with all applicable rules, including 15A NCAC 03K and 15A NCAC 18A .0300.

(c) Depuration of shellfish shall be conducted in accordance with all applicable rules, including 15A NCAC 03K and 15A NCAC 18A .0300 and .0700.

(d) For shellfish growing waters classified as restricted and used as a source of shellstock for depuration, the microbiological survey, as set forth in Rule .0903(c)(3) of this Section, shall indicate the bacteriological water quality does not exceed the following standards based on results generated using the systematic random sampling strategy:

(1) a median fecal coliform most probable number (MPN) or geometric mean MPN of 88 per 100 milliliters;
(2) a median fecal coliform colony-forming units (CFU) or geometric mean CFU of 88 per 100 milliliters;
(3) an estimated 90th percentile of 260 MPN per 100 milliliters for a five-tube decimal dilution test; or
(4) an estimated 90th percentile of 163 CFU per 100 milliliters for a membrane filter membrane-Thermotolerant Escherichia coli (mTEC) test.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. June 1, 1989;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0907 PROHIBITED WATERS

Shellfish growing waters shall be classified as prohibited if:

(1) no current sanitary survey, as set forth in Rule .0903 of this Section, exists for the growing area; or
(2) the sanitary survey determines:
    (a) the shellfish growing waters are adjacent to a sewage treatment plant outfall or other point source outfall with public health significance; or
    (b) the shellfish growing waters are contaminated with fecal material, pathogenic microorganisms, poisonous or deleterious substances, or marine biotoxins that render consumption of shellfish from those growing waters hazardous.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. June 1, 1989;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0908 UNSURVEYED AREAS

History Note: *Authority G.S. 130A-230;*
Eff. June 1, 1989;
Repealed Eff. May 1, 2021.

15A NCAC 18A .0909 BUFFER ZONES

(a) The Division of Marine Fisheries shall establish a buffer zone around the following:

(1) marinas, in accordance with Rule .0911 of this Section; and
(2) wastewater treatment plant outfalls or other point source outfalls determined to be of public health significance, in accordance with the latest approved edition of the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, Section II: Model Ordinance, Chapter IV: Shellstock Growing Areas, which is incorporated by reference, including subsequent amendments and editions, and available at https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp at no cost.

(b) Buffer zones shall be classified as prohibited.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. June 1, 1989;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0910 RECLASSIFICATION

History Note: *Authority G.S. 130A-230;*
Eff. June 1, 1989;
Repealed Eff. May 1, 2021.

15A NCAC 18A .0911 MARINAS, DOCKING FACILITIES, AND OTHER MOORING AREAS

The Division of Marine Fisheries shall classify shellfish growing waters with respect to marinas, docking facilities, and other mooring areas as follows:

(1) the Division shall classify all waters within a marina as prohibited to the harvesting of shellfish for human consumption; and
(2) the Division shall conduct a dilution analysis, in the form of a volumetric calculation or in-field hydrographic study, to determine the volume of water necessary to dilute the concentration of fecal coliform bacteria to less than 14 MPN. The Division shall classify the water area determined by this dilution analysis as prohibited to the harvesting of shellfish for human consumption. The Division shall conduct the dilution analysis yearly and shall incorporate the following:
    (a) the findings of the shoreline survey, including the presence of a sewage pumpout system or dump station;
    (b) the physical factors influencing the dilution and dispersion of human wastes; and
    (c) for marinas, docking facilities, and mooring areas in close proximity to one another, slip counts and services shall be combined for the purposes of the dilution analysis. Marinas, docking facilities, and mooring areas, each with three slips or more, shall be considered to be in close proximity to one another if the dilution analysis for each individual facility indicates that the dilution areas meet or overlap.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. June 1, 1989;
Amended Eff. July 1, 1993;
Readopted Eff. June 1, 2023.

15A NCAC 18A .0912 SHELLFISH MANAGEMENT AREAS

History Note: *Authority G.S. 130A-230;*
Eff. June 1, 1989;
Repealed Eff. June 1, 2022.

15A NCAC 18A .0913 PUBLIC HEALTH EMERGENCY

(a) The Division of Marine Fisheries shall immediately close any potentially impacted shellfish growing waters to the harvesting of shellfish in the event of a public health emergency.

(b) The Division may re-open shellfish growing waters if the condition causing the public health emergency no longer exists and shellfish have had time to purify naturally from possible contamination.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. June 1, 1989;
Readopted Eff. May 1, 2021.

15A NCAC 18A .0914 LABORATORY PROCEDURES

(a) All laboratory analyses used for the evaluation of shellfish growing areas shall be performed by a laboratory found by a Food and Drug Administration (FDA) Shellfish Laboratory Evaluation Officer or by an FDA-certified State Shellfish Laboratory Evaluation Officer to conform or provisionally conform to the requirements established under the National Shellfish Sanitation Program (NSSP).

(b) All methods for the analysis of shellfish and shellfish growing waters that are used for the evaluation of shellfish growing areas shall be cited in the latest edition of the NSSP Guide for the Control of Molluscan Shellfish, Section IV: Guidance Documents, subsection Approved NSSP Laboratory Tests, which is incorporated by reference, including subsequent amendments and editions, and available at https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp at no cost, or validated for use by the NSSP under the Constitution, Bylaws and Procedures of the Interstate Shellfish Sanitation Conference, which is incorporated by reference, including subsequent amendments and editions, and available at https://www.issc.org/constitution-bylaws-procedures, at no cost. If there is an immediate or ongoing critical need for a method and no method approved for use within the NSSP exists, the following may be used:

(1) a validated Association of Analytical Communities, Bacteriological Analysis Manual, or Environmental Protection Agency method; or

(2) an Emergency Use Method as set forth in the latest approved edition of the NSSP Guide for the Control of Molluscan Shellfish.

History Note: *Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*
Eff. June 1, 1989;
Amended Eff. September 1, 1991; September 1, 1990;
Readopted Eff. May 1, 2021.

SECTION .3400 – COASTAL RECREATIONAL WATERS MONITORING, EVALUATION, AND NOTIFICATION

15A NCAC 18A .3401 DEFINITIONS

The following definitions shall apply to this Section:

(1) "Division" means the Division of Marine Fisheries or its authorized agent.

(2) "Enterococcus" means a gram positive coccoid-shaped bacteria that is found in the intestinal tracts of warm-blooded animals that include Enterococcus faecalis, Enterococcus faecium, Enterococcus avium, and Enterococcus gallinarium.

(3) "Geometric mean" means the mean of "n" positive numbers obtained by taking the "n^{th}" root of the product of the numbers with at least five samples collected within a 30-day period.

(4) "Pending swimming advisory" means a notification to the public that recommends no primary contact with the water in a designated swimming area when bacteriological limits are exceeded, but does not close a swimming area to the public. A pending swimming advisory shall include a public notification via social media release to notify the public of the risks of swimming in the area. A pending swimming advisory shall be followed by a resample that will determine if a swimming advisory will be issued.

(5) "Point source discharge" means the discharge of liquids through a pipe, drain, ditch, or other conveyance into a swimming area.

(6) "Primary contact" means an activity in water in which a person's head is partially or completely submerged.

(7) "Resample" means a water sample that is collected by the Division of Marine Fisheries or its authorized agent after the results of the initial water sample collected are processed by the Division and the results are analyzed by the Division.

(8) "Storm water discharge" means any natural or manmade conveyance of rainwater or the resultant runoff into coastal recreational waters.

(9) "Swimming advisory" means a notification to the public that recommends no primary contact with the water in a designated swimming area when bacteriological limits are exceeded, but does not close a swimming area to the public. A swimming advisory shall include a sign posted at the site of the advisory and a public notification via social media and news release to notify the public of the risks of swimming in the area.

(10) "Swimming area" means a coastal recreation area that is used for primary contact located within waters classified by the Division of Water Resources as SC, SA, or SB as set forth in 15A NCAC 02B .0220 through .0222, and is hereby incorporated by reference including subsequent amendments.

(11) "Swimming season" means from April 1 through October 31 of each year.

(12) "Tier I swimming area" means a swimming area used daily during the swimming season, including all oceanfront beaches that are monitored by the Division.

(13) "Tier II swimming area" means a swimming area that is not used daily during the swimming season.

History Note: *Authority G.S. 113-134; 113-221.3; 143B-289.52;*
Eff. February 1, 2004;
Readopted Eff. April 1, 2021.

15A NCAC 18A .3402 BACTERIOLOGICAL LIMITS FOR SWIMMING AREAS

(a) The enterococcus level in a Tier I swimming area shall not equal or exceed either:
- (1) a geometric mean of 35 enterococci per 100 milliliters of water; or
- (2) a single sample of 104 enterococci per 100 milliliters of water.

(b) The enterococcus level in a Tier II swimming area shall not equal or exceed a single sample of 104 enterococci per 100 milliliters of water.

History Note: *Authority G.S. 113-134; 113-221.3; 143B-289.52;*
Eff. February 1, 2004;
Readopted Eff. April 1, 2021.

15A NCAC 18A .3403 PUBLIC NOTICE OF INCREASED HEALTH RISKS IN SWIMMING AREAS

(a) Tier I Swimming areas:
- (1) A pending swimming advisory shall be issued by the Division of Marine Fisheries if a water sample from a swimming area is equal to or exceeds the bacteriological limit set forth in Rule .3402(a)(2) of this Section during the swimming season.
- (2) A swimming advisory shall be issued by the Division if either of the following standards are exceeded during the swimming season:
  - (A) Both the initial water sample and resample collected from a swimming area are equal to or exceed the bacteriological limit set forth in Rule .3402(a)(2) of this Section; or
  - (B) The most recent five water samples collected within a 30-day period from a swimming area are equal to or exceed the bacteriological limit set forth in Rule .3402(a)(1) of this Section.

(b) Tier II swimming areas:
- (1) A pending swimming advisory shall be issued by the Division if a water sample from a swimming area is equal to or exceeds the bacteriological limit set forth in Rule .3402(a)(2) of this Section during the swimming season.
- (2) A swimming advisory shall be issued by the Division if both the initial water sample and resample collected from a swimming area are equal to or exceed the bacteriological limit set forth in Rule .3402(a)(2) of this Section during the swimming season.

(c) Signs posted pursuant to this Section shall be placed or erected in open view where the public may see the sign prior to entering the water.

(d) Signs shall state the following:

ATTENTION: SWIMMING IN THIS AREA IS NOT RECOMMENDED. BACTERIA TESTING INDICATES LEVELS OF CONTAMINATION THAT MAY BE HAZARDOUS TO YOUR HEALTH. THIS ADVISORY AFFECTS WATERS WITHIN 200' OF THIS SIGN. OFFICE OF THE STATE HEALTH DIRECTOR.

History Note: *Authority G.S. 113-134; 113-221.3; 143B-289.52;*
Eff. February 1, 2004;
Readopted Eff. April 1, 2021.

15A NCAC 18A .3404 SWIMMING ADVISORIES FOR POINT SOURCE DISCHARGES INTO SWIMMING AREAS

(a) The Division of Marine Fisheries shall post at least one sign at a wastewater treatment plant that discharges into swimming waters, which shall stay posted until the discharge is removed. The sign for a wastewater treatment plant discharge shall state the following:

WARNING! SEWAGE TREATMENT EFFLUENT DISCHARGE SITE. SWIMMING IS NOT ADVISED IN THESE WATERS BECAUSE OF THE INCREASED RISK OF ILLNESS. OFFICE OF THE STATE HEALTH DIRECTOR.

(b) A swimming advisory shall be issued by the Division and at least one sign shall be posted at the public access to swimming waters that have been impacted by a wastewater system failure. The sign for waters impacted by a wastewater spill shall state the following:

WARNING! WASTEWATER SPILL. SWIMMING IS NOT ADVISED IN THESE WATERS BECAUSE OF THE INCREASED RISK OF ILLNESS. OFFICE OF THE STATE HEALTH DIRECTOR.

(c) A swimming advisory shall be issued by the Division and at least one sign shall be posted at a storm drain or pipe or storm water discharge that is discharging into a Tier 1 swimming area. A sign shall be placed to advise the public as they enter the area impacted by the storm drain or pipe or storm water discharge. For dry weather discharges, the sign shall state the following:

WARNING! STORM WATER DISCHARGE AREA. SWIMMING WITHIN 200 YARDS OF THIS SIGN MAY INCREASE THE RISKS OF WATERBORNE ILLNESS. OFFICE OF THE STATE HEALTH DIRECTOR.

For wet weather discharges, the sign shall state the following:

WARNING! STORM WATER DISCHARGE AREA. WATERS MAY BE CONTAMINATED BY DISCHARGE FROM PIPE. SWIMMING IS NOT RECOMMENDED WITHIN 200 YARDS OF THIS SIGN DURING ACTIVE DISCHARGE. FOR MORE INFORMATION, CALL 252-726-6827. OFFICE OF THE STATE HEALTH DIRECTOR.

(d) A swimming advisory shall be issued by the Division and at least two signs shall be posted at a storm drain or pipe where flood waters are being pumped into a swimming area. The signs shall state the following:

SWIMMING IS NOT RECOMMENDED BETWEEN SIGNS. WATERS MAY BE CONTAMINATED BY DISCHARGE FROM PIPE. OFFICE OF THE STATE HEALTH DIRECTOR.

(e) A swimming advisory shall be issued by the Division and at least two signs shall be posted at an area receiving dredge material on a swimming beach if the dredge material is being pumped from an area closed to shellfish harvesting. The signs shall state the following:

SWIMMING IS NOT RECOMMENDED BETWEEN SIGNS. WATERS MAY BE CONTAMINATED BY DISCHARGE FROM PIPE. OFFICE OF THE STATE HEALTH DIRECTOR.

History Note: *Authority G.S. 113-134; 113-221.3; 143B-289.52;*
Eff. January 1, 2004;
Readopted Eff. April 1, 2021.

15A NCAC 18A .3405 RESCINDING A PENDING SWIMMING ADVISORY OR SWIMMING ADVISORY

(a) A pending swimming advisory shall be rescinded by the Division of Marine Fisheries via social media release when the resample collected meets the bacteriological limit set forth in Rule .3402(a)(2) of this Section.

(b) A Tier I swimming area advisory shall be rescinded by the Division via social media and news release, including the removal of signs, when both of the following conditions are met:

(1) the geometric mean has met the bacteriological limit set forth in Rule .3402(a)(1) of this Section; and
(2) two consecutive weekly water samples meet the bacteriological limit set forth in Rule .3402(a)(2) of this Section.

(c) A Tier II swimming area advisory shall be rescinded by the Division via social media and news release, including the removal of signs, after water samples meet the bacteriological limit set forth in Rule .3402(b) of this Section.

(d) A swimming advisory resulting from a flood water discharge or the discharge of dredge material shall be rescinded by the Division via social media and news release, including the removal of signs, 24 hours after the discharge has ceased, to allow for tidal dispersion.

(e) A swimming advisory resulting from a wastewater system failure shall be rescinded by the Division via social media and news release, including the removal of signs, when failure has been corrected and water samples collected meet the bacteriological limit set forth in Rule .3402(a)(2) of this Section.

History Note: *Authority G.S. 113-134; 113-221.3; 143B-289.52;*
Eff. January 1, 2004;
Readopted Eff. April 1, 2021.

15A NCAC 18A .3406 DESTRUCTION OF SIGNS
15A NCAC 18A .3407 APPLICABILITY OF RULES

History Note: *Authority G.S. 130A-233.1;*
Eff. January 1, 2004;
Repealed Eff. April 1, 2021.

INDEX

A "♦" symbol is used in the index of the rulebook as a visual sign to alert readers there may be a public notice, or proclamation, for a subject. The Marine Fisheries Commission has the authority to delegate to the Fisheries Director the ability to issue proclamations, suspending or implementing particular commission rules that may be affected by variable conditions. For example, the index entry "species, sheepshead♦" indicates there may be a proclamation outlining harvest restrictions or other information for that species. Proclamations are not included in the rulebook because they change frequently.

Go to https://deq.nc.gov/fisheries-management-proclamations to view proclamations and learn about the restrictions. If you do not have Internet access, please call 252-726-7021 or 800-682-2632 to find out how to receive proclamation information. It is imperative that persons affected by proclamations keep themselves informed.

Please note: entries for fishing gear and equipment are listed alphabetically under the heading **"gear." Other major headings** in the index include **"lease," "license," "permit,"** and **"species."** For example, to look up information about a shellfish lease, see "lease, shellfish."

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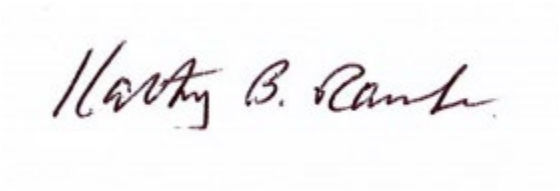
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THE ORIGINAL AND OFFICIAL COPY OF TITLE 15A, CHAPTER 03 AND SUBCHAPTER 18A OF THE N.C. ADMINISTRATIVE CODE ARE ON FILE IN THE OFFICE OF ADMINISTRATIVE HEARINGS AND ARE AVAILABLE FOR PUBLIC INSPECTION DURING NORMAL WORKING HOURS.

THIS DOCUMENT IS AVAILABLE FROM:
N.C. DIVISION OF MARINE FISHERIES
P.O. BOX 769
3441 ARENDELL STREET
MOREHEAD CITY, NC 28557
1-800-682-2632 or 252-726-7021
https://deq.nc.gov/marine-fisheries

CERTIFICATION

PURSUANT TO G.S. 113-221 (B) AND G.S. 113-221 (G), THIS IS TO CERTIFY THAT THE PRECEDING "NORTH CAROLINA MARINE FISHERIES COMMISSION RULES APRIL 1, 2020, SUPPLEMENT – JUNE 1, 2023" IS THE OFFICIAL CODIFICATION OF THE RULES OF THE N.C. MARINE FISHERIES COMMISSION EFFECTIVE AS OF JUNE 1, 2023.



KATHY B. RAWLS, DIRECTOR
N.C. DIVISION OF MARINE FISHERIES