

N.C. Marine Fisheries Commission 2021-2022 Annual Rulemaking Cycle Package C

June 2022

Time of Year	Action
March 8, 2022	MFC approved Notice of Text for Rulemaking
April 18, 2022	Publication of proposed rules in the <i>North Carolina Register</i>
April 18-June 17, 2022	Public comment period held
May 4, 2022	Public hearing held via WebEx
June 23, 2022	MFC votes on approval of 9 permanent rules
June 28, 2022	WRC votes on approval of 9 MFC permanent rules
June 30, 2022	Readoption deadline for 15A NCAC 03
Aug. 18, 2022	Rules reviewed by Office of Administrative Hearings/ Rules Review Commission
Sept. 1, 2022	Earliest effective date of 8 of 9 rules not subject to legislative review; rulebook supplement available online
2023 legislative session	Possible effective date of 1 of 9 rules subject to legislative review per S.L. 2019-198 and G.S. 14-4.1.

Roy Cooper
Governor

Elizabeth S. Biser
Secretary DEQ



Kathy B. Rawls
Director

Release: Immediate
Date: April 18, 2022

Contact: [Patricia Smith](#)
Phone: 252-726-7021

MEDIA ADVISORY: Comment period opens, public hearing scheduled for marine fisheries joint rules

MOREHEAD CITY –The N.C. Marine Fisheries Commission is accepting public comment on proposed amendments and re-adoption of nine rules under a state-mandated periodic review schedule. The rules are proposed for re-adoption without changes and pertain to joint fishing waters that are managed jointly with the N.C. Wildlife Resources Commission.

A public hearing will be held by web conference on May 4 at 6 p.m. The public may join the meeting online; however, those who wish to comment during the hearing must register to speak by noon on the day of the hearing.

Members of the public also may submit written comments through an online form or through the mail to N.C. Marine Fisheries Commission Rules Comments, P.O. Box 769, Morehead City, N.C. 28557. Comments must be posted online or be received by the N.C. Division of Marine Fisheries by 5 p.m. June 17, 2022.

Links to the public hearing registration form and online comment form, as well as text of the proposed rules and links to join the meeting, can be found on the N.C. Marine Fisheries Commission's [Proposed Rules Page](#).

The proposed rule changes will be presented to the N.C. Marine Fisheries Commission for final approval in June 2022 and have an earliest effective date of Sept. 1, 2022.

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

WHO:	N.C. Marine Fisheries Commission
WHAT:	Public Hearing for Proposed Rules
WHEN:	May 4 at 6 p.m.
WHERE:	Meeting by Web Conference Click Here for Information and to Sign Up to Speak

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NORTH CAROLINA REGISTER

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Contact List for Rulemaking Questions or Concerns

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

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

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215 North Dawson Street

919-715-2893

Raleigh, North Carolina 27603

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Raleigh, North Carolina 27601

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Legislative Process Concerning Rulemaking

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Jason Moran-Bates, Staff Attorney

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NORTH CAROLINA REGISTER
Publication Schedule for January 2022 – December 2022

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 th day from publication in the Register
36:13	01/03/22	12/08/21	01/18/22	03/04/22	03/21/22	04/21/2022	05/01/22	09/30/22
36:14	01/18/22	12/22/21	02/02/22	03/21/22	04/20/22	05/19/2022	06/01/22	10/15/22
36:15	02/01/22	01/10/22	02/16/22	04/04/22	04/20/22	05/19/2022	06/01/22	10/29/22
36:16	02/15/22	01/25/22	03/02/22	04/18/22	04/20/22	05/19/2022	06/01/22	11/12/22
36:17	03/01/22	02/08/22	03/16/22	05/02/22	05/20/22	06/16/2022	07/01/22	11/26/22
36:18	03/15/22	02/22/22	03/30/22	05/16/22	05/20/22	06/16/2022	07/01/22	12/10/22
36:19	04/01/22	03/11/22	04/16/22	05/31/22	06/20/22	07/21/2022	08/01/22	12/27/22
36:20	04/18/22	03/25/22	05/03/22	06/17/22	06/20/22	07/21/2022	08/01/22	01/13/23
36:21	05/02/22	04/08/22	05/17/22	07/01/22	07/20/22	08/18/2022	09/01/22	01/27/23
36:22	05/16/22	04/25/22	05/31/22	07/15/22	07/20/22	08/18/2022	09/01/22	02/10/23
36:23	06/01/22	05/10/22	06/16/22	08/01/22	08/22/22	09/15/2022	10/01/22	02/26/23
36:24	06/15/22	05/24/22	06/30/22	08/15/22	08/22/22	09/15/2022	10/01/22	03/12/23
37:01	07/01/22	06/10/22	07/16/22	08/30/22	09/20/22	10/20/2022	11/01/22	03/28/23
37:02	07/15/22	06/23/22	07/30/22	09/13/22	09/20/22	10/20/2022	11/01/22	04/11/23
37:03	08/01/22	07/11/22	08/16/22	09/30/22	10/20/22	11/17/2022	12/01/22	04/28/23
37:04	08/15/22	07/25/22	08/30/22	10/14/22	10/20/22	11/17/2022	12/01/22	05/12/23
37:05	09/01/22	08/11/22	09/16/22	10/31/22	11/21/22	12/15/2022	01/01/23	05/29/23
37:06	09/15/22	08/24/22	09/30/22	11/14/22	11/21/22	12/15/2022	01/01/23	06/12/23
37:07	10/03/22	09/12/22	10/18/22	12/02/22	12/20/22	01/19/2023	02/01/23	06/30/23
37:08	10/17/22	09/26/22	11/01/22	12/16/22	12/20/22	01/19/2023	02/01/23	07/14/23
37:09	11/01/22	10/11/22	11/16/22	01/03/23	01/20/23	02/16/2023	03/01/23	07/29/23
37:10	11/15/22	10/24/22	11/30/22	01/17/23	01/20/23	02/16/2023	03/01/23	08/12/23
37:11	12/01/22	11/07/22	12/16/22	01/30/23	02/20/23	03/16/2023	04/01/23	08/28/23
37:12	12/15/22	11/22/22	12/30/22	02/13/23	02/20/23	03/16/2023	04/01/23	09/11/23

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

EXPLANATION OF THE PUBLICATION SCHEDULE

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

GENERAL

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

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

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

FILING DEADLINES

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

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

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.

END OF REQUIRED COMMENT PERIOD
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

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

by both parties. Any reimbursement check shall be sent directly to the ~~owner or operator~~ owner, operator, or landowner.

(d) Payment of ~~third-party~~ third-party claims shall be made to the owner or operator, or jointly to the owner or operator and the ~~third party~~ third-party claimant.

(e) Any request for reimbursement that has not been returned to the owner, operator, or landowner, or reimbursed to the owner, operator, or landowner within 90 days of submittal of such a request may be considered by the owner, operator, or landowner as having been denied by the Department.

Authority G.S. 143-215.3; 143-215.94B; 143-215.94E; 143-215.94L; 143-215.94T; 143B-282.

15A NCAC 02P .0406 REIMBURSEMENT APPORTIONMENT

(a) ~~Where multiple occurrences are addressed in a single cleanup action, expenses will be reimbursed based on apportionment among the occurrences. The method of apportionment will be as follows:~~

- (1) ~~Expenses related directly to a particular occurrence shall be applied only to that occurrence;~~
- (2) ~~Expenses that are related to more than one occurrence will be apportioned equally among the occurrences.~~

(a)(b) ~~Where~~ If not all underground storage tanks contributing to an occurrence are eligible for reimbursement, reimbursement will shall be made at a rate equal to the number of tanks contributing to the occurrence which that are eligible for reimbursement divided by the total number of tanks contributing to the occurrence.

(b)(e) If multiple underground storage tanks at a single property are contributing to a single occurrence and the tanks are owned or operated by different persons, reimbursement may be made to any of the owners or operators as if the occurrence were caused solely entirely by that person's underground storage tanks.

(c) If multiple storage tanks, either above ground or underground, at a single facility are contributing to a single occurrence, reimbursement shall be apportioned based upon the volume of eligible tanks divided by the total volume of all tanks contributing to the release.

(d) Where multiple occurrences are addressed in a single cleanup action, expenses shall be reimbursed based on apportionment among the occurrences. The method of apportionment shall be as follows:

- (1) expenses related to a particular occurrence shall be applied only to that occurrence; or
- (2) expenses that are related to more than one occurrence shall be apportioned on a pro rata basis among the occurrences.

Authority G.S. 143-215.3; 143-215.94E; 143-215.94L; 143-215.94T; 143B-282.

15A NCAC 02P .0407 FINAL ACTION APPEAL RIGHTS

(a) The Director, ~~or his delegate,~~ Underground Storage Tank Section Chief, or Trust Fund Branch Head of the Division of

Waste Management shall make the agency decision on a written application for eligibility for reimbursement from the appropriate fund. Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund. The Director, or his delegate, Underground Storage Tank Section Chief, or Trust Fund Branch Head shall make the agency decision on any written request claim for reimbursement made subsequent to an initial application. once an applicant has been granted eligibility.

(b) ~~An owner or operator~~ owner, operator, or landowner who has ~~not received a written notification of decision been denied of~~ eligibility to or for reimbursement from the appropriate fund Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund within 90 days of after submittal of a written application in accordance with the ~~procedures rules~~ procedures of this Subchapter, or who has had any written reimbursement request denied after submittal in accordance with the procedures of this Subchapter, shall be notified of the right to petition for a contested case in the Office of Administrative Hearings in accordance with the procedure set out in G.S. 150B-23. The Secretary of the Department of Environment, Health, and Natural Resources shall make the final agency decision in any contested case pursuant to G.S. 150B-36. Subchapter may elect to consider the application to have been denied and may file an appeal as provided in Article 3 of Chapter 150B of the General Statutes.

(c) An owner, operator, or landowner who has received a written notification of eligibility to or for reimbursement from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund after submittal of a written application in accordance with the rules of this Subchapter and disagrees with the notification may elect to file an informal appeal supplying additional information. Following review of the additional information, the Director, Underground Storage Tank Section Chief, or Trust Fund Branch Head shall issue a written agency decision. If the written decision by the Director, Underground Storage Tank Section Chief, or Trust Fund Branch Head does not change the original decision of eligibility to or for reimbursement from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund, the Department shall notify the owner, operator, or landowner of the right to petition for a contested case in the Office of Administrative Hearings in accordance with G.S. 150B-23.

(d) An owner, operator, or landowner who has received a written notification of eligibility to or for reimbursement from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund after submittal of a written application in accordance with the rules of this Subchapter and disagrees with the notification may elect to file a petition for a contested case in the Office of Administrative Hearings in accordance with G.S. 150B-23 without providing any additional information.

Authority G.S. 143-215.3; 143-215.94B; ~~143-215.94D;~~ 143-215.94E; 143-215.94L; 143-215.94T; 143B-282; 150B-23; ~~150B-36.~~

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Marine Fisheries Commission intends to

readopt without substantive changes the rules cited as 15A NCAC 03Q .0101-.0109.

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

Proposed Effective Date: 15A NCAC 03Q .0101, .0102, .0103, .0104, .0105, .0106, .0108, .0109 – September 1, 2022
15A NCAC 03Q .0107 – Automatically subject to legislative review, S.L. 2019-198

Public Hearing: Date: May 4, 2022 Time: 6:00 p.m. Location: Webex Events meeting link: https://ncdenrits.webex.com/ncdenrits/onstage/g.php?MTID=e8cd072d4a64ebd5d402a3e3b38387adf
Event number: 2422 476 9859 Event password: 1234 Event phone number: 1-415-655-0003

Reason for Proposed Action: In accordance with G.S. 150B-21.3A, these nine joint rules that pertain to the classification of the waters of North Carolina as coastal fishing waters, inland fishing waters, and joint fishing waters are proposed for readoption by the N.C. Marine Fisheries Commission with no changes.

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

Comment period ends: June 17, 2022

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Rule is automatically subject to legislative review: S.L. 2019-198: 15A NCAC 03Q .0107

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply. State funds affected Local funds affected

- Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

CHAPTER 03 - MARINE FISHERIES

SUBCHAPTER 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 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 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.

Authority G.S. 113-132; 113-134; 143B-289.52.

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 which are tributary to inland fishing waters and which are 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 enforcement officers.

Authority G.S. 113-132; 113-134; 143B-289.52.

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 which are tributary to coastal fishing waters and which are not otherwise designated by agreement between the Marine Fisheries Commission and the Wildlife Resources Commission are coastal fishing waters. The regulations 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, 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 waters are enforced by fisheries enforcement officers. Regulations regarding inland game fish in coastal fishing waters are enforced by wildlife enforcement officers unless otherwise agreed to by the Wildlife Resources Commission.

Authority G.S. 113-132; 113-134; 143B-289.52.

15A NCAC 03Q .0104 JOINT FISHING WATERS

Joint fishing waters are those coastal fishing waters, hereinafter set out, 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 which are tributary to joint fishing waters and which are not otherwise designated by agreement between the Marine Fisheries Commission and the Wildlife Resources Commission are classified as joint fishing waters. The regulation and licensing of fishing in joint waters shall be as stated in 15A NCAC 3Q .0106.

Authority G.S. 113-132; 113-134; 143B-289.52.

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 in so far 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 regulation pertaining to any such body of water or portion thereof.

Authority G.S. 113-132; 113-134; 143B-289.52.

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

(a) All coastal fishing laws and regulations administered by the Department of Environment and Natural Resources and the Marine Fisheries Commission apply to joint waters except as otherwise provided, and shall be enforced by fisheries enforcement officers.

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

- (3) all laws and regulations pertaining to hook and line fishing except as hereinafter provided.

Authority G.S. 113-132; 113-134; 143B-289.52.

15A NCAC 03Q .0107 SPECIAL REGULATIONS: JOINT WATERS

In order to effectively manage all fisheries resources in joint waters and in order to confer enforcement powers on both fisheries enforcement officers and wildlife enforcement officers with respect to certain rules, the Marine Fisheries Commission and the Wildlife Resources Commission deem it necessary to adopt special rules for joint waters. Such rules supersede any inconsistent rules of the Marine Fisheries Commission or the Wildlife Resources Commission that would otherwise be applicable in joint 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 long (total length).
 - (b) It is unlawful to possess striped bass or striped bass hybrids between the lengths of 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 waters except as authorized by rules of the Marine Fisheries Commission.
- (2) Lake Mattamuskeet:
 - (a) It is unlawful to set or attempt to set any gill net in Lake Mattamuskeet canals designated as joint waters.

- (b) It is unlawful to use or attempt to use any trawl net or seines in Lake Mattamuskeet canals designated as joint 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.

- (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 waters, excluding the Roanoke River Management Area, shall automatically be implemented and effective as a Wildlife Resources Commission action in the inland waters and tributaries to the waters affected.

Authority G.S. 113-132; 113-134; 143B-289.52.

15A NCAC 03Q .0108 MANAGEMENT RESPONSIBILITY FOR ESTUARINE STRIPED BASS IN JOINT 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 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 waters of the Albemarle Sound Management Area. The annual quota for recreational harvest of the Albemarle-Roanoke 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.

Authority G.S. 113-132; 113-134; 113-182; 143B-289.52.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to amend the rules cited as 15A NCAC 07H .0304, .0306, .0309, and .0310.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules/proposed-rules>

Proposed Effective Date: August 1, 2022

Public Hearing:

Date: May 3, 2022

Time: 11:00 a.m.

Location: Brunswick County Government Center
30 Government Center Drive
Bolivia, NC 28422
Commission Chambers

Date: May 3, 2022

Time: 2:30 p.m.

Location: New Hanover County Public Library
1241 Military Cutoff Road
Wilmington, NC 28405

Date: May 9, 2022

Time: 3:00 p.m.

Location: Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557
Upstairs Conference Room

Date: May 10, 2022

Time: 10:00 a.m.

Location: Onslow County Public Library
1330 NC Hwy 210
Sneads Ferry, NC 28460
Room #105

Authority G.S. 113-132; 113-134; 143B-289.52.

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 actions 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 waters shall operate as and shall be a jointly issued instrument opening or closing

**MARINE FISHERIES COMMISSION
SUMMARY OF PUBLIC HEARING FOR PROPOSED RULES
DIVISION OF MARINE FISHERIES
WEBEX ONLINE HEARING
MAY 4, 2022, 6 PM**

Marine Fisheries Commission: Commissioner Robert McNeill;
Commission Counsel Shawn Maier

Division of Marine Fisheries Staff: Catherine Blum, Lucas Pensinger, Hope Wade, Jason Walsh

Public: None

Media: None

Marine Fisheries Commissioner Robert McNeill, serving as the hearing officer, opened the public hearing for Marine Fisheries Commission proposed rules at 6 p.m. No one from the public or media was in attendance. Seeing no one to provide comments on the proposed rules, Commissioner McNeill closed the hearing at 6:10 p.m.

/cb

1 15A NCAC 03Q .0101 is proposed for reoption without substantive changes as follows:
2

3 **SUBCHAPTER 03Q - JURISDICTION OF AGENCIES: CLASSIFICATION OF WATERS**
4

5 **SECTION .0100 - GENERAL REGULATIONS: JOINT**
6

7
8 **15A NCAC 03Q .0101 SCOPE AND PURPOSE**

9 The rules in this Section pertain to the classification of the waters of North Carolina as coastal fishing waters, inland
10 fishing waters and joint fishing waters. These rules are adopted jointly by the Marine Fisheries Commission and the
11 Wildlife Resources Commission. In addition to the classification of the waters of the state these joint rules set forth
12 guidelines to determine which fishing activities in joint waters are regulated by the Marine Fisheries Commission and
13 which are regulated by the Wildlife Resources Commission. Finally, the joint rules set forth special fishing regulations
14 applicable in joint waters that can be enforced by officers of the Division of Marine Fisheries and the Wildlife
15 Resources Commission. These regulations do not affect the jurisdiction of the Marine Fisheries Commission and the
16 Wildlife Resources Commission in any matters other than those specifically set out.
17

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

1 15A NCAC 03Q .0102 is proposed for reoption without substantive changes as follows:

2

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

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

12

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

14 *Eff. January 1, 1991;*

15 *Readopted Eff. September 1, 2022.*

1 15A NCAC 03Q .0103 is proposed for reoption without substantive changes as follows:

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

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

14

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

16 *Eff. January 1, 1991;*

17 *Readopted Eff. September 1, 2022.*

1 15A NCAC 03Q .0104 is proposed for readoption without substantive changes as follows:

2

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

4 Joint fishing waters are those coastal fishing waters, hereinafter set out, denominated by agreement of the Marine
5 Fisheries Commission and the Wildlife Resources Commission pursuant to G.S. 113-132(e) as joint fishing waters.

6 All waters which are tributary to joint fishing waters and which are not otherwise designated by agreement between
7 the Marine Fisheries Commission and the Wildlife Resources Commission are classified as joint fishing waters. The
8 regulation and licensing of fishing in joint waters shall be as stated in 15A NCAC 3Q .0106.

9

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

11 *Eff. January 1, 1991;*

12 *Readopted Eff. September 1, 2022.*

1 15A NCAC 03Q .0105 is proposed for reoption without substantive changes as follows:

2

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

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

12

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

14 *Eff. January 1, 1991;*

15 *Readopted Eff. September 1, 2022.*

1 15A NCAC 03Q .0106 is proposed for reoption without substantive changes as follows:

2

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

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

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

9 (1) all laws and regulations pertaining to inland game fishes,

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

11 (3) all laws and regulations pertaining to hook and line fishing except as hereinafter provided.

12

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

14 *Eff. January 1, 1991;*

15 *Amended Eff. July 1, 1999;*

16 *Readopted Eff. September 1, 2022.*

1 15A NCAC 03Q .0107 is proposed for readoption without substantive changes as follows:

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

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

9 (1) Striped Bass

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

28 (2) Lake Mattamuskeet:

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

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

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

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

1 15A NCAC 03Q .0108 is proposed for reoption without substantive changes as follows:

2

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

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

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

17

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

19 *Eff. January 1, 1991;*

20 *Amended Eff. October 1, 2004; September 1, 1991;*

21 *Readopted Eff. September 1, 2022.*

1 15A NCAC 03Q .0109 is proposed for reoption without substantive changes as follows:

2

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

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

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

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

21

22 *History Note: Authority G.S. 113-132; 113-134; 113-182; 143B-289.52;*

23 *Eff. January 1, 1991;*

24 *Amended Eff. October 1, 2004; September 1, 1991;*

25 *Readopted Eff. September 1, 2022.*