

**Rule Impact Analysis for Readoption of 15A NCAC 03Q .0100
Pursuant to G.S. 150B-21.3A**

Rule Amendments: 15A NCAC 03Q .0101-.0109

Name of Commission: N.C. Marine Fisheries Commission

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Impact Summary: State government: No
Local government: No
Federal government: No
Substantial impact: No

Authority:

North Carolina General Statutes

G.S. 113-132.	Jurisdiction of fisheries agencies.
G.S. 113-134.	Rules.
G.S. 113-182.	Regulation of fishing and fisheries.
G.S. 143B-289.52.	Marine Fisheries Commission - powers and duties.
G.S. 150B-21.3A	Periodic review and expiration of existing rules.

I. Necessity:

General Statute 150B-21.3A requires state agencies to review their existing rules every 10 years to determine which rules are still necessary, and to either readopt or repeal each rule as appropriate. The rules in 15A NCAC 03Q .0100 are proposed for readoption without substantive change pursuant to this requirement.

II. Summary

The nine rules in 15A NCAC 03Q .0100 have been reviewed to conform to the requirements of G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules. The proposed readoptions do not contain any changes to the rules. As these contain no changes to rule text, the proposed readoption package does not result in any fiscal impacts to the regulated community, state government, or other parties.

III. Introduction and Purpose of Rule Changes

The purpose of the Marine Fisheries Commission (MFC) is to manage, restore, develop, cultivate, conserve, protect, and regulate the marine and estuarine resources within its jurisdiction, as described in G.S. 113-132, including commercial and recreational fisheries resources (Chapter 143B, Article 7, Part 5D). Session Law 1965-957 amended Subchapter IV of Chapter 113 of the General Statutes of North Carolina to create G.S. 113-132, Jurisdiction of

fisheries agencies. This was done in part to clarify the conservation laws of the state and the authority and jurisdiction of what are now the MFC and the Wildlife Resources Commission (WRC). Paragraph (e) of this statute states that the “Marine Fisheries Commission and the Wildlife Resources Commission may make joint regulations governing the responsibilities of each agency and modifying the applicability of licensing and other regulatory provisions as may be necessary for rational and compatible management of the marine and estuarine and wildlife resources in joint fishing waters.”

In accordance with G.S. 113-132, the nine rules in 15A NCAC 03Q .0100, subtitled “Jurisdiction of Agencies: Classification of Waters” were originally adopted jointly by the MFC and the WRC. As a result, both agencies must approve readoption of the rules.

IV. Fiscal Impact Analysis

As these nine rules are being proposed for readoption with no changes, there will be no new impacts to the economic benefits and costs of the rules. As such, no fiscal impact will be observed from this proposed readoption package.

V. Appendix

Proposed Rules for Readoption

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

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.

History Note: Authority G.S. 113-132; 113-134; 143B-289.52;
Eff. January 1, 1991;
Readopted Eff. May 1, 2021.

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

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.

*History Note: Authority G.S. 113-132; 113-134; 143B-289.52;
Eff. January 1, 1991;
Readopted Eff. May 1, 2021.*

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

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.

History Note: Authority G.S. 113-132; 113-134; 143B-289.52;
Eff. January 1, 1991;
Readopted Eff. May 1, 2021.

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

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.

*History Note: Authority G.S. 113-132; 113-134; 143B-289.52;
Eff. January 1, 1991;
Readopted Eff. May 1, 2021.*

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

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.

*History Note: Authority G.S. 113-132; 113-134; 143B-289.52;
Eff. January 1, 1991;
Readopted Eff. May 1, 2021.*

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

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.

*History Note: Authority G.S. 113-132; 113-134; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. July 1, 1999;
Readopted Eff. May 1, 2021.*

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

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.

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. May 1, 2021.

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

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.

*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. May 1, 2021.*

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

**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 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 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.

*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. May 1, 2021.*