

**N.C. Marine Fisheries Commission Rules Effective April 1, 2024**  
**Form 0300 Notice of Text (Attachment)**  
**7. Explain Reason for Proposed Rule(s):**

Shellfish Relay Program and Shellfish Leases and Franchises

<b>15A NCAC 03I .0101</b>	<b>DEFINITIONS</b>
<b>15A NCAC 03K .0101</b>	<b>PROHIBITED ACTIVITIES IN POLLUTED SHELLFISH AREAS</b>
<b>15A NCAC 03K .0104</b>	<b>PERMITS FOR RELAYING SHELLFISH FROM POLLUTED AREAS</b>
<b>15A NCAC 03K .0301</b>	<b>SIZE AND HARVEST LIMITS OF CLAMS</b>
<b>15A NCAC 03K .0401</b>	<b>POLLUTED AREA PERMIT REQUIREMENTS</b>
<b>15A NCAC 03K .0403</b>	<b>DISPOSITION OF MEATS</b>
<b>15A NCAC 03K .0405</b>	<b>OYSTERS, HARD CLAMS, OR MUSSELS PROHIBITED</b>
<b>15A NCAC 03O .0201</b>	<b>STANDARDS AND REQUIREMENTS FOR SHELLFISH LEASES AND FRANCHISES</b>
<b>15A NCAC 03O .0501</b>	<b>PROCEDURES AND REQUIREMENTS TO OBTAIN PERMITS</b>
<b>15A NCAC 03O .0503</b>	<b>PERMIT CONDITIONS; SPECIFIC</b>
<b>15A NCAC 18A .0901</b>	<b>DEFINITIONS</b>
<b>15A NCAC 18A .0906</b>	<b>RESTRICTED AREAS</b>

Proposed repeals (15A NCAC 03K .0104, .0401, .0403, .0405) and amendments (15A NCAC 03I .0101, 03K .0101, .0301, 03O .0201, .0501, .0503, 18A .0901, .0906) make conforming changes to remove outdated shellfish relay requirements to reflect the discontinuation of the N.C. Division of Marine Fisheries Shellfish Relay Program. Additional proposed amendments to 15A NCAC 03K .0101 clarify exceptions for activities allowed in polluted shellfish areas that require an Aquaculture Seed Transport Permit, Depuration Permit, or Shellfish Relocation Permit. Additional proposed amendments to 15A NCAC 03I .0101 move three defined terms to 15A NCAC 03O .0201 and update them consistent with Session Law 2019-37, Section 3, to apply to that section of rules about shellfish leases and franchises. Proposed amendments to Paragraphs (c) through (h) of 15A NCAC 03O .0201 incorporate and conform the shellfish production and planting requirements from Session Law 2019-37 for shellfish leases granted before July 1, 2019 and for shellfish leases granted on or after this date; proposed amendments to Paragraph (i) require shellfish lease or franchise holders to meet the listed production, marking, and permit requirements for current shellfish leases before being eligible for additional shellfish lease acreage. Doing so would help ensure more efficient and meaningful use of the public trust bottom by preventing persons not in good standing from precluding potential applicants from applying for a shellfish lease in affected areas. A technical change is proposed to 15A NCAC 03I .0101(5)(k) to remove Elizabeth City from the definition of "Office of the Division" since the license office there is permanently closed; the remaining offices are also proposed to be listed in geographic order from south to north. Additional minor changes to this group of rules correct cross-references to other rules.

Data Collection and Harassment Prevention for the Conservation of Marine and Estuarine Resources

**15A NCAC 03I .0113 DATA COLLECTION**

Proposed amendments set requirements to address harassment by any licensee or person engaged in regulated activity under Chapter 113, Subchapter IV, of the General Statutes (e.g., fishing) of N.C. Division of Marine Fisheries employees that occurs in the process of obtaining data for the conservation of marine and estuarine resources, and data for the protection of public health related to the public health programs that fall under the authority of the N.C. Marine Fisheries Commission. Additional amendments provide the types of data that may be collected. The amendments support the importance of participation by persons engaged in regulated fishing activity in division data collection and provide a safer working environment for division employees.

<b>15A NCAC 03O .0101</b>	<b>PROCEDURES AND REQUIREMENTS TO OBTAIN LICENSES, ENDORSEMENTS, AND COMMERCIAL FISHING VESSEL REGISTRATIONS</b>
<b>15A NCAC 03O .0109</b>	<b>ASSIGNMENT OF STANDARD COMMERCIAL FISHING LICENSE</b>

**15A NCAC 03O .0112 FOR-HIRE LICENSE REQUIREMENTS**

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

Proposed amendments make it unlawful for a holder of a Standard Commercial Fishing License or Retired Standard Commercial Fishing License (15A NCAC 03O .0101), an assignee of a Standard Commercial Fishing License (15A NCAC 03O .0109), a person involved in regulated activity related to for-hire fishing (15A NCAC 03O .0112), and a holder of a Recreational Commercial Gear License (15A NCAC 03O .0301) to fail to participate in and provide accurate information for data collection in accordance with 15A NCAC 03I .0113 and for survey programs administered by the N.C. Division of Marine Fisheries. The amendments support the importance of participation by persons engaged in regulated fishing activity in division data collection for the conservation of marine and estuarine resources and the protection of public health related to the public health programs that fall under the authority of the N.C. Marine Fisheries Commission, and also provide a safer working environment for division employees.

Oyster Sanctuary Changes

**15A NCAC 03R .0117 OYSTER SANCTUARIES**

Proposed amendments add the boundaries of the two newest oyster sanctuaries (Cedar Island and Gull Shoal) and correct boundaries for three other oyster sanctuaries (Pea Island, Raccoon Island, and Swan Island) where recently published coordinates were found to be inconsistent with permitted and marked reef boundaries. These changes will protect oysters from bottom disturbing gear and safeguard boaters navigating the sanctuaries. Coordinates for three sanctuaries are proposed to be reorganized to standardize the cardinal directions, for consistency; there are no changes to the overall sanctuary, nor the coordinate pairs themselves.

Readoption of Shellfish Sanitation Rules (15A NCAC 18A)

**15A NCAC 03K .0110, 18A .0301, .0302, .0305, .0401-.0424, .0426-.0430, .0432-.0439, .0501-.0504, .0601-.0621, .0701-.0713, .0801-.0806**

North Carolina G.S. 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. This group of 85 rules in 15A NCAC 03 and 18A is proposed for the readoption of one rule with no changes, readoption of 55 rules with amendments, repeal through readoption of 23 rules, amendment of two rules, adoption of three rules, and the repeal of one rule pursuant to this requirement. Proposed changes would help ensure that North Carolina remains in full compliance with National Shellfish Sanitation Program requirements, allow the N.C. Division of Marine Fisheries to increase clarity of rules for stakeholders, and allow the division to efficiently support and enforce rules for the protection of public health related to the consumption of shellfish.