

**Rule Impact Analysis for Readoption of 15A NCAC 03 Rules with Conforming Changes  
Pursuant to G.S. 150B-21.3A**

**Rule Amendments:** 15A NCAC 03I .0113, .0118, 03J .0101, .0110, .0302, 03K .0101, .0102, .0105, .0106, .0108, .0201, .0202, .0204, .0207, .0301, .0302, .0304, .0305, .0401, .0505, 03L .0101-.0103, .0105, 03M .0201, .0202, .0204, .0205, .0503, 03N .0104, .0105, 03O .0301-.0303, .0401-.0406

**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:**

<u>North Carolina General Statutes</u>	
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 40 rules in 15A NCAC 03I, 03J, 03K, 03L, 03M, 03N, and 03O are proposed for readoption without substantive change pursuant to this requirement.

**II. Summary**

The 40 rules in 15A NCAC 03I, 03J, 03K, 03L, 03M, 03N, and 03O have been reviewed to conform to the requirements of G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules. The proposed readoptions contain only conforming and technical changes that bear no meaningful impact to these rules. Due to this, 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).

Proposed amendments are to rules 15A NCAC 03I, 03J, 03K, 03L, 03M, 03N, and 03O, which relate to general rules, gear, shellfish, crustacea, finfish, nursery areas, and licenses. Overall, these proposed changes contain a variety of conforming and technical changes to update rule language. However, none of the proposed changes impact the intent or administration of these 40 rules. With this, there is no expected impact overall from these proposed changes.

### **IV. Fiscal Impact Analysis**

As these 40 rules are being proposed for readoption with only a variety of conforming and technical 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 03I .0113 is proposed for readoption with substantive changes as follows:

#### 15A NCAC 03I .0113 BIOLOGICAL SAMPLING

It ~~is~~ shall be unlawful for any licensee under Chapter 113, Subchapter IV, of the General Statutes to refuse to allow the Fisheries Director or ~~his~~ their 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; ~~113-170.4~~; 113-174.1; 113-182; 143B-289.52;  
Eff. October 1, 1992;  
Recodified from 15A NCAC 3I .0013 Eff. December 17, 1996;  
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03I .0118 is proposed for reoption with substantive changes as follows:

**15A NCAC 03I .0118 DISPOSAL OF EVIDENCE**

It ~~is shall be~~ unlawful for any person to dispose of ~~fish or fish, parts thereof, of fish, fishing equipment or gear, or~~ other matter ~~in any manner,~~ 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. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03J .0101 is proposed for readoption with substantive changes as follows:

**SUBCHAPTER ~~3J~~03J - NETS, POTS, DREDGES, AND OTHER FISHING DEVICES**

**SECTION .0100 - NET RULES, GENERAL**

**15A NCAC 03J .0101    FIXED OR STATIONARY NETS**

It ~~is~~ shall be unlawful to use or set fixed or stationary ~~nets;~~ nets for any of the following:

- (1) ~~In in~~ the channel of the Intracoastal ~~Waterway or in any other location where it may constitute a hazard to navigation;~~ Waterway;
- (2) ~~So as~~ to block more than two-thirds of ~~any a~~ natural or manmade waterway, sound, river, bay, creek, ~~inlet inlet,~~ or any other body of water;
- (3) ~~In in~~ the middle third of ~~any marked a~~ navigation ~~channel;~~ channel marked by State or federal agencies; or
- (4) ~~In the channel third of the following rivers: Roanoke, Cashie, Middle, Eastmost, Chowan, Little, Perquimans, Pasquotank, North, Alligator, Pungo, Pamlico, and Yeopim.~~
- (4) in a location where it may interfere with navigation.

*History Note:    Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03J .0110 is proposed for readoption with substantive changes as follows:

**15A NCAC 03J .0110 SEINES**

It ~~is shall be~~ unlawful to use seines 30 feet or over in length for recreational purposes unless the net is marked by attaching to the corkline ~~one a~~ floating buoy, any shade of hot pink in ~~color, which 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 ~~owner~~ gear owner's last name and initials shall ~~always~~ be identified on the attached buoy using an engraved ~~buoys buoy or~~ by attaching engraved metal or plastic tags to the buoy. ~~Such~~ If a vessel is used, the identification shall also include ~~owner's last name and initials and if a vessel is used,~~ one of the following:

- (1) ~~Gear-gear~~ gear owner's current motor boat registration number; or
- (2) ~~Owner's~~ 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. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03J .0302 is proposed for readoption with substantive changes as follows:

**15A NCAC 03J .0302 RECREATIONAL USE OF POTS**

(a) It ~~is 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 ~~one a~~ floating buoy, any shade of hot pink in ~~color, which 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 ~~owner-gear owner's last name and initials~~ shall ~~always~~ be identified on the attached buoy using an engraved buoys-buoy or by attaching engraved metal or plastic tags to the buoy. ~~Such~~ If a vessel is used, the identification shall also include ~~the owner's last name and initials and if a vessel is used,~~ one of the following:

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

(b) It ~~is 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. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03K .0101 is proposed for readoption with substantive changes as follows:

**SUBCHAPTER 03K - OYSTERS, CLAMS, ~~SCALLOPS~~ SCALLOPS, AND MUSSELS**

**SECTION .0100 – SHELLFISH, GENERAL**

**15A NCAC 03K .0101 PROHIBITED ACTIVITIES IN POLLUTED SHELLFISH AREAS/ACTIVITIES AREAS**

(a) It ~~is~~ shall be unlawful to possess, sell, or take oysters, ~~clams~~ clams, or mussels from areas ~~which~~ that have been designated as ~~prohibited (polluted)~~ polluted by proclamation by the Fisheries Director except as provided in ~~15A NCAC 03K rules .0103, .0104, .0107, and .0401.~~ 0401 of this Subchapter. The Fisheries Director shall issue such shellfish polluted area proclamations ~~upon notice by the Division of Environmental Health that duly adopted~~ 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 ~~upon notification from the Division of Environmental Health that duly adopted 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 ~~St., Street, P.O. Box 769, Morehead City, NC 28557; 800-682-2632 or 252-(252) 726-7021.~~

(b) The Fisheries Director may, by proclamation, close areas to the taking of oysters, clams, ~~scallops~~ scallops, and mussels ~~in order~~ to protect the shellfish populations for management purposes or for public health purposes not specified in Paragraph (a) of this Rule.

(c) It ~~is~~ shall be unlawful to possess or sell oysters, clams, or mussels taken from polluted waters outside North ~~Carolina.~~ 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~~; 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. (Pending legislative review pursuant to S.L. 2019-198).*



15A NCAC 03K .0102 is proposed for readoption with substantive changes as follows:

**15A NCAC 03K .0102 RAKES PROHIBITED RAKES**

It ~~is 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 ~~described~~ defined in 15A NCAC 03I ~~.0101, .0101~~ .0101 ~~or in any established bed of salt water cordgrass (Spartina alterniflora)-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. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03K .0105 is proposed for readoption with substantive changes as follows:

**15A NCAC 03K .0105 RECREATIONAL HARVEST OF SHELLFISH**

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

- (1) during open ~~seasons, seasons;~~ and
- (2) for recreational purposes.

(b) It ~~is 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,~~ and day;
- (2) 100 mussels per person per day, not to exceed 200 mussels per vessel per ~~day, 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. May 1, 2022.*

15A NCAC 03K .0106 is proposed for readoption with substantive changes as follows:

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

- (a) It ~~is shall be~~ unlawful to take oysters or clams between the hours of sunset and sunrise on any day.
- (b) It ~~is shall be~~ unlawful to unload oysters or clams from any vessel or remove any vessel containing oysters or clams from the water on ~~Sunday-Sundays~~ or between sunset and sunrise on any day except that in New Hanover, ~~Pender~~ Pender, and Brunswick ~~Counties, counties~~, oysters and clams may be unloaded until two hours after sunset.
- (c) Oysters and clams taken on ~~Sunday-Sundays~~ from public bottom under the provisions of ~~15A NCAC 03K-Rule .0105 of this Section~~ or from shellfish leases and franchises pursuant to G.S. 113-208 ~~are 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. May 1, 2022.*

15A NCAC 03K .0108 is proposed for readoption with substantive changes as follows:

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

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

(b) It ~~is~~ shall be unlawful to use mechanical methods for oystering or clamming to take shellfish not subject to the restrictions in ~~15A NCAC 03K rules .0201, .0204, .0302, 0304, .0304, .0404, .0501, and .0503~~ .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~~; 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 ~~Oysters and Clams~~ Shellfish on Shellfish Leases and Franchises;
- (3) in areas designated in ~~15A NCAC 03K 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 ~~03K rules .0201, .0302, .0404, .0501, and .0503~~ .0503 of this Subchapter.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;  
Eff. October 1, 2008;  
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 03K .0201 is proposed for reoption with substantive changes as follows:

## SECTION .0200 – OYSTERS

### 15A NCAC 03K .0201 OYSTER HARVEST MANAGEMENT

- (a) It ~~is~~ 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, except the minimum size limit specified shall not be less than two and one-half inches to prevent loss of oysters due to predators, pests, or infectious oyster diseases; 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. May 1, 2022.*

15A NCAC 03K .0202 is proposed for readoption with substantive changes as follows:

**15A NCAC 03K .0202 CULLING REQUIREMENTS FOR OYSTERS**

(a) It ~~is~~ shall be unlawful to possess oysters ~~which 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 ~~is~~ has been exceeded, ~~the Fisheries Director or his agents may~~ 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,~~ graded, and in cases of violations, may seize and return to public bottom or otherwise dispose of the oysters as authorized by ~~law.~~ law the entire quantity being graded or any portion thereof.

~~(b) All 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.~~

~~(c)~~ (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. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 03K .0204 is proposed for readoption with substantive changes as follows:

**15A NCAC 03K .0204 ~~DREDGES / MECHANICAL~~ MECHANICAL METHODS FOR OYSTERING  
PROHIBITED**

It ~~is~~ shall be unlawful to use any ~~dredge or other mechanical method~~ 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 ~~permit~~ a Permit to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises; and
- (2) on any posted ~~bottoms~~ bottom upon which oysters or shells have been planted by the state, unless such ~~bottoms have~~ bottom has been opened to the public and ~~dredging permitted~~ 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. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 03K .0207 is proposed for readoption with substantive changes as follows:

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

Possession and sale of oysters by a hatchery or ~~oyster~~ aquaculture operation and purchase and possession of oysters from a hatchery or ~~oyster~~ aquaculture operation shall be exempt from bag and size limit restrictions ~~set under authority of 15A NCAC 03K .0201 and 03K .0202~~, as set forth in rules .0201 and .0202 of this Section. It ~~is~~ shall be unlawful to possess, sell, purchase, or transport such oysters unless they are in compliance with all conditions of the Aquaculture ~~Operations Permit~~ 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. (Pending legislative review pursuant to S.L. 2019-198).*



15A NCAC 03K .0301 is proposed for reoption with substantive changes as follows:

**SECTION .0300 - HARD CLAMS (MERCENARIA)**

**15A NCAC 03K .0301 SIZE AND HARVEST ~~LIMIT~~LIMITS**

(a) It ~~is~~ 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 ~~is~~ 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 ~~15A NCAC 3K .0305(b)~~ 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 it was taken. ~~Agents of the Fisheries Director are~~ 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 ~~of clams being graded~~ graded, and in cases of violations, may seize and return to public bottom or ~~other disposition~~ otherwise dispose of the clams as authorized by law ~~of~~ 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 ~~15A NCAC 3K .0302~~ Rule .0302 of this Section may or may not apply apply for:

- (1) ~~For harvest limits for temporary openings made upon the recommendation of Division of Environmental Health,~~ consistent with the requirements of 15A NCAC 18A .0900 and the North Carolina Hard Clam Fishery Management Plan;
- (2) ~~For 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) ~~For relaying of polluted clams from polluted waters to private shellfish bottoms~~ bottom as permitted by ~~15A NCAC 3K .0104~~ Rule .0104 of this Subchapter.

*History Note:* Authority G.S. 113-134; 113-136; 113-137; 113-182; 113-221; 143B-289.52;  
*Eff. January 1, 1991;*  
*Amended Eff. March 1, 1994;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03K .0302 is proposed for reoption with substantive changes as follows:

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

(a) It ~~is shall be~~ unlawful to take, buy, sell, or possess any clams taken by ~~mechanical methods~~ mechanical methods for clamming as defined in 15A NCAC 03I ~~.0101, "mechanical methods for clamming,"~~ .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 ~~Coastal~~ 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 ~~15A NCAC 03K .0301(b)~~ Subparagraph (b) of Rule .0301 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. May 1, 2022.*

15A NCAC 03K .0304 is proposed for reoption with substantive changes as follows:

**15A NCAC 03K .0304 PROHIBITED TAKING OF CLAMS**

(a) It ~~is shall be~~ unlawful to take clams by ~~any method, other than by hand tongs, hand rakes, or by hand,~~ mechanical methods for clamming as defined in 15A NCAC 03I .0101, except as provided in ~~15A NCAC 03K Rule .0302 and .0303 of this Section.~~ Regardless of the areas ~~which that~~ may be opened, it ~~is shall be~~ unlawful to take clams by hand tongs in any established bed of submerged aquatic vegetation as ~~described defined~~ in 15A NCAC 03I .0101 or salt water cordgrass (~~Spartina alterniflora)-alterniflora~~) that may exist together or separately.

(b) It ~~is shall be~~ unlawful to possess clam trawls or cages aboard a vessel at any time, or have ~~kick/deflector-kick or deflector~~ plates ~~normally 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 ~~15A NCAC 03K .0302(a).~~ Subparagraph (a) of Rule .0302 of this Section. A period of 14 days before and after the season as specified by proclamation ~~will shall~~ be allowed for the installation and removal of ~~kick/deflector-kick or deflector~~ plates and clam trawls or cages. Vessels with permits for activities provided for in ~~15A NCAC 03K rules .0104, .0107, .0303(a),~~ and .0401 of this Subchapter shall be exempt from this Rule during the times such activities are permitted.

*History Note:* Authority G.S. 113-134; 113-182; ~~113-221;~~ 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. October 1, 2008; February 1, 2008; May 1, 1997; July 1, 1993;  
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 03K .0305 is proposed for reoption with substantive changes as follows:

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

Possession and sale of clams by a hatchery or ~~clam~~-aquaculture operation and purchase and possession of clams from a hatchery or ~~clam~~-aquaculture operation shall be exempt from bag and size limit restrictions ~~in 15A NCAC 3K .0301(a)~~ as set forth in Rule .0301 of this Section. It ~~is~~ shall be unlawful to possess, sell, purchase, or transport such clams unless they are in compliance with all conditions of the Aquaculture Operation ~~Permit~~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. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03K .0401 is proposed for re adoption with substantive changes as follows:

**SECTION .0400 - RANGIA CLAMS**

**15A NCAC 03K .0401    ~~PROHIBITED~~    ~~(POLLUTED)~~    POLLUTED    AREA    PERMIT  
REQUIREMENTS**

It ~~is shall be~~ unlawful to take Rangia clams or their shells by any method from ~~prohibited (polluted) polluted~~ waters without first ~~securing~~ obtaining a Permit to Harvest Rangia Clams from ~~Prohibited (Polluted) Polluted~~ Areas from the Fisheries Director. The permit application shall include a list of all designees operating under the permit. ~~Such~~ The permit shall designate the area, means and methods, and ~~time(s) 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. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03K .0505 is proposed for readoption with substantive changes as follows:

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

It ~~is shall be~~ unlawful to land or possess sea scallops with a shell height (length) of less than three and one-half inches. A tolerance of not more than ~~ten~~ 10 percent by number for undersized sea scallop shell height shall be allowed. In determining whether the ~~proportion of undersized sea scallops exceeds the ten percent tolerance limit, the Fisheries Director and his agents are~~ 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 ~~require seizure or other disposition~~ 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 thereof.

*History Note: Authority G.S. 113-134; 113-136; 113-137; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03L .0101 is proposed for reoption with substantive changes as follows:

**SUBCHAPTER 03L – ~~SHRIMPS,~~SHRIMP, CRAB, AND LOBSTER**

**SECTION .0100 - SHRIMP**

**15A NCAC 03L .0101 SHRIMP HARVEST RESTRICTIONS**

- (a) It ~~is~~shall be unlawful to take shrimp until the Fisheries Director, by proclamation, opens the season.
- (b) The Fisheries Director may, by proclamation, impose any ~~or all~~ 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. May 1, 2022.*

15A NCAC 03L .0102 is proposed for reoption with substantive changes as follows:

**15A NCAC 03L .0102 WEEKEND SHRIMPING PROHIBITED**

It ~~is 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 ~~and 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. (Pending legislative review pursuant to S.L. 2019-198).*



15A NCAC 03L .0103 is proposed for readoption with substantive changes as follows:

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

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

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

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

- (1) ~~North~~ 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) ~~Effective January 1, 2017 it is~~ It shall be unlawful to take shrimp with trawls that have a combined headrope of greater than 220 feet in Internal ~~Coastal~~ 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 ~~is shall be~~ unlawful to use a shrimp trawl in the areas described in 15A NCAC 03R .0114.

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

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

(h) It ~~is~~ 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 ~~<http://www.gpoaccess.gov/cfr/index.html>~~ <https://www.ecfr.gov/cgi-bin/ECFR> and at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, North Carolina 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. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 03L .0105 is proposed for readoption with substantive changes as follows:

**15A NCAC 03L .0105 RECREATIONAL SHRIMP LIMITS**

It ~~is~~ shall be unlawful to:

- (1) ~~Possess~~ 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~~ 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 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. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03M .0201 is proposed for reoption with substantive changes as follows:

### SECTION .0200 - STRIPED BASS

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

- (a) ~~Striped bass is defined as striped bass~~ For the purpose of this Section, "striped bass" shall mean striped bass (Morone saxatilis) and its hybrids taken in ~~coastal and joint fishing waters~~. Coastal and Joint Fishing Waters.
- (b) It ~~is shall be~~ unlawful to possess striped bass ~~imported from other states that are~~ less than 18 inches long (total ~~length~~)-length) imported from other states.
- (c) It ~~is 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 coastal waters~~; Internal Waters;
  - (2) open striped bass season established for the Atlantic Ocean; or
  - (3) open striped bass season of another state without possession of the following:
    - (A) ~~A~~ a bill of lading as described in 15A NCAC 03I .0114; and
    - (B) ~~A~~ a numbered, state-issued tag from the ~~State~~ 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. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 03M .0202 is proposed for readoption with substantive changes as follows:

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

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

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

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

- (1) ~~Specify~~ specify fishing days and times;
- (2) ~~Specify areas;~~ 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
- (~~3~~)(5) ~~Specify~~ 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~~ Area, as designated in ~~Rule~~ 15A NCAC 03R .0201; and
  - (B) more than two fish in any one day in the ~~joint and coastal fishing waters~~ Joint and Coastal Fishing Waters of the Central Southern Management ~~Area~~ Area, as designated in ~~Rule~~ 15A NCAC 03R .0201; .0201.
- (4) ~~Specify means and methods; and~~
- (~~5~~) ~~Specify size, but the minimum size specified shall not be less than 18 inches total length.~~

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. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03M .0204 is proposed for reoption with substantive changes as follows:

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

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

*History Note: Authority G.S. 113-134; 113-182; ~~113-221~~; 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. May 1, 2022.*

15A NCAC 03M .0205 is proposed for re adoption with substantive changes as follows:

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

(a) It ~~is shall be~~ unlawful to possess striped bass on a vessel with a trawl net on that vessel in ~~internal coastal waters~~ 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 ~~must shall~~ meet the minimum size limit set by proclamation.

(b) It ~~is 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.

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

*Eff. January 1, 1991;*

*Amended Eff. December 1, 2007;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03M .0503 is proposed for readoption with substantive changes as follows:

**15A NCAC 03M .0503 FLOUNDER**

- (a) It ~~is~~ 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 ~~5-1/2~~ five and one-half inches or larger diamond mesh (stretched) or ~~6~~ six inches or larger square mesh (stretched) applied throughout the body, ~~extension(s)~~ extensions, and the cod end (tailbag) of the net except as provided in ~~Paragraphs~~ paragraphs (g) and (h) of this Rule.
- (c) License to Land Flounder from the Atlantic Ocean:
- (1) ~~It is it shall be~~ 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~~ 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 is it shall be~~ 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 is it shall be~~ 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 is it shall be~~ 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 (c)(1) of this Rule.
- (d) All fish dealer transactions in flounder landed from the Atlantic Ocean must be conducted in accordance with the Atlantic Ocean Flounder Dealer Permits in 15A NCAC 03O .0503 and related ~~rules~~ requirements in 15A NCAC 03O .0500.
- (e) It ~~is~~ 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 ~~definition~~requirements:

- (1) ~~The the~~ net has large mesh in the wings that measure ~~8-eight~~ inches to 64 inches;
- (2) ~~The the~~ first body section (belly) of the net has 35 or more meshes that are at least ~~8-eight~~ inches; and
- (3) ~~The the~~ mesh decreases in size throughout the body of the net to as small as ~~2-two~~ inches or smaller towards the terminus of the net.

(i) Commercial ~~Season~~Season:

- (1) ~~The 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 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~~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 ~~or all~~ of the following actions in the flounder fishery:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season;
- ~~(1)(5)~~ ~~Specify~~specify size;
- ~~(2)~~ ~~Specify~~season;
- ~~(3)~~ ~~Specify~~area;
- ~~(4)(6)~~ ~~Specify~~specify quantity; and
- ~~(5)~~ ~~Specify~~means/methods; and

~~(6)~~(7) ~~Require~~ 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 ~~is~~ shall be unlawful to possess, sell, purchase, or transport such flounder unless they are in compliance with all conditions of the Aquaculture ~~Operations~~ Operation Permit.

*History Note: Authority G.S. 113-134; 113-169.5; 113-182; ~~113-221~~; 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. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03N .0104 is proposed for readoption with substantive changes as follows:

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

It ~~is shall be~~ unlawful to use any trawl net, long haul seine, swipe net, dredge, ~~or mechanical method for clams or oysters~~ 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 ~~3R-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. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03N .0105 is proposed for reoption with substantive changes as follows:

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

(a) It ~~is~~ 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 ~~is~~ 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 ~~or all~~ of the special secondary nursery areas, or any portion thereof, ~~listed~~ 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~~; 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. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03O .0301 is proposed for re adoption with substantive changes as follows:

**SECTION .0300 – RECREATIONAL COMMERCIAL GEAR LICENSES**

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

- (a) It ~~is~~ shall be unlawful for any individual to hold more than one Recreational Commercial Gear License.
- (b) Recreational Commercial Gear Licenses shall only be issued to individuals.

*History Note: Filed as a Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*

*Authority G.S. 113-134; 113-170.4; 113-173; 113-182; ~~113-221~~; 143B-289.52;*

*Eff. February 1, 1995;*

*Temporary Amendment Eff. July 1, 1999;*

*Amended Eff. August 1, 2000;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 030 .0302 is proposed for readoption with substantive changes as follows:

**15A NCAC 030 .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~~ one seine 30 feet or over in length but not greater than 100 feet with a mesh length less than ~~2 1/2~~ 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~~ one shrimp trawl with a headrope not exceeding 26 feet in length per ~~vessel~~ vessel;
- (3) ~~With~~ 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~~ one multiple hook or multiple bait trotline up to 100 feet in length;
- (5) ~~Gill Nets~~ gill nets:
  - (A) ~~Not~~ not more than 100 yards of gill nets with a mesh length equal to or greater than ~~2 1/2~~ two and one-half inches except as provided in Part (C) of this Subparagraph. Attendance ~~is~~ shall be required at all times;
  - (B) ~~Not~~ not more than 100 yards of gill nets with a mesh length equal to or greater than ~~5 1/2~~ five and one-half inches except as provided in Part (C) of this Subparagraph. Attendance ~~is~~ shall be required when used from one hour after sunrise through one hour before sunset in ~~internal coastal fishing waters~~ 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 ~~is~~ shall be required at all times in ~~internal coastal fishing waters~~ 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; ~~and~~
  - (C) ~~Not~~ 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~~ board a vessel, a maximum of 200 yards may be used from a vessel; and
  - (D) ~~It is~~ it shall be unlawful to possess ~~aboard~~ on board a vessel more than 100 yards of gill nets with a mesh length less than ~~5 1/2~~ five and one-half inches and more than 100 yards of gill nets with a mesh length equal to or greater than ~~5 1/2~~ five and one-half inches identified as recreational commercial fishing equipment when only one Recreational Commercial Gear License holder is on ~~board~~ board a vessel. It ~~is~~ shall be unlawful to possess ~~aboard~~ on board a vessel more than 200 yards of gill nets with a mesh length less than ~~5 1/2~~ five and one-half inches and more than 200 yards of gill nets with a mesh length equal to or greater than ~~5 1/2~~ five and one-half inches identified as recreational commercial

fishing equipment when two or more Recreational Commercial Gear License holders are on ~~board;~~board a vessel;

- (6) A ~~one~~ hand-operated device generating pulsating electrical current for the taking of catfish in the area described in 15A NCAC 03J .0304;
- (7) ~~Skimmer-skimmer~~ trawls not exceeding 26 feet in total combined ~~width;~~width; and
- (8) ~~One~~ one pound net used to take shrimp with each lead 10 feet or less in length and with a minimum lead net mesh of ~~1-1/2~~ one and one-half inches, and enclosures constructed of net mesh of ~~1-1/4~~ one and one-fourth inches or greater and with all dimensions being 36 inches or less. Attendance ~~is~~ shall be required at all times and all gear ~~must~~ 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 ~~is~~ shall be unlawful to use more than the quantity of authorized gear specified in ~~Subparagraphs (a)(1) through (a)(8)~~ Paragraph (a) of this Rule, regardless of the number of individuals ~~aboard~~ on board a vessel possessing a valid Recreational Commercial Gear License.

(c) It ~~is~~ shall be unlawful for ~~a person~~ 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. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03O .0303 is proposed for readoption with substantive changes as follows:

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

(a) It ~~is~~ shall be unlawful to possess more than a single recreational possession limit when only one ~~person aboard~~ individual on board a vessel possesses a valid Recreational Commercial Gear License and recreational commercial fishing equipment as ~~defined~~ described in 15A NCAC 03O .0302(a) is used, regardless of the number of ~~persons~~ individuals on board ~~board~~ a vessel.

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

(c) It ~~is~~ shall be unlawful for any ~~person~~ 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 ~~defined~~ described in 15A NCAC 03O ~~.0302(a),~~ .0302(a) to exceed the single recreational possession limit.

(d) It ~~is~~ shall be unlawful for ~~persons aboard~~ 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 ~~defined~~ described in 15A NCAC 03O ~~.0302(a),~~ .0302(a) to exceed one recreational possession limit.

(e) It ~~is~~ shall be unlawful to possess more than 48 quarts, heads on, or 30 quarts, heads off, of shrimp when only one ~~person aboard~~ individual on board a vessel possesses a valid Recreational Commercial Gear License and recreational commercial fishing equipment as ~~defined~~ described in 15A NCAC 03O .0302(a) is used.

(f) It ~~is~~ shall be unlawful to possess more than 96 quarts, heads ~~on on,~~ or 60 quarts, heads off, of shrimp if more than one ~~person aboard~~ individual on board a vessel possesses a valid Recreational Commercial Gear License and recreational commercial fishing equipment as ~~defined~~ described in 15A NCAC 03O .0302(a) 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. (Pending legislative review pursuant to S.L. 2019-198).*



15A NCAC 03O .0401 is proposed for readoption with substantive changes as follows:

**SECTION .0400 – STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY**

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

(a) The ~~Chairman~~ Chair of the Marine Fisheries Commission, the Secretary of the Department of ~~Environment and Natural Resources~~, Environmental Quality, and the Director of the Division of Marine Fisheries 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 Standard Commercial Fishing License 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. May 1, 2022.*

15A NCAC 03O .0402 is proposed for reoption with substantive changes as follows:

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

- (a) Application forms for determination of eligibility for the Standard Commercial Fishing ~~Licenses~~ License Eligibility Pool ~~shall be~~ 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 ~~must~~ shall be submitted to the Morehead City Office of the ~~Division of Marine Fisheries~~ Division, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557 for processing.
- (b) Only one application per individual for determination of eligibility for the Standard Commercial Fishing ~~Licenses~~ License Eligibility Pool shall be accepted or may be pending at any one time. An applicant may have only one entry in the ~~eligibility pool~~ 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 ~~Licenses~~ License Eligibility Pool.
- (d) If an applicant has died or becomes ineligible and is subsequently selected from the ~~eligibility pool~~ Standard Commercial Fishing License Eligibility Pool, that license eligibility shall automatically revert to the ~~eligibility pool~~ Standard Commercial Fishing License Eligibility Pool.
- (e) Persons claiming retirement from commercial fishing or transferring their Standard Commercial Fishing License ~~may not apply for pool eligibility~~ 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~~ transfer, except as provided in ~~15A NCAC 03O .0404(3)~~ Item (3) of Rule .0404 of this Section.
- (f) Applicants shall notify the ~~Division of Marine Fisheries~~ 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. May 1, 2022.*

15A NCAC 03O .0403 is proposed for reoption with substantive changes as follows:

**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's~~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 pool at ~~their~~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 ~~Chairman~~Chair of the Standard Commercial Fishing License 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. May 1, 2022.*

15A NCAC 03O .0404 is proposed for reoption with substantive changes as follows:

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

In determining eligibility of an ~~application-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:~~involvement in commercial fishing:
  - (a) ~~Significant-significant~~ involvement in the commercial fishing industry for three of the last five years;~~or~~
  - (b) ~~Significant-significant~~ involvement in commercial fishing or in the commercial fishing industry prior to the last five years;~~or~~
  - (c) ~~In-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-grandparent~~, or other adult; or
  - (d) ~~Significant-significant~~ involvement of the applicant's family in commercial fishing. For the purpose of this ~~Sub-item, Sub-Item~~, family shall include mother, father, ~~brother, sister, brothers, sisters~~, spouse, children, ~~grandparents-grandparents~~, or legal guardian.

For the purposes of this Rule, ~~significant involvement means-~~"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 ~~purchases-purchase~~ fish at the point of landing. Significant involvement does not include activities such as those who transport fish from the point of ~~landing-landing~~, those who sell or make commercial or recreational fishing ~~gear-gear~~, those who operate bait and tackle shops unless they are engaged in the actual taking of bait for ~~sale-sale~~, or those who work in fish markets or crab picking ~~operations-operations~~;

- (2) ~~Compliance with Applicable Laws and Regulations:~~compliance with applicable laws, regulations, and rules:
  - (a) ~~The-the~~ applicant shall not have any licenses, ~~endorsements or commercial fishing vessel registrations-endorsements~~, or Commercial Fishing Vessel Registrations issued by the Division of Marine Fisheries or the right to hold such under suspension or revocation at the time of application or during the eligibility review;~~or~~
  - (b) ~~If-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 registrations-endorsements~~, or Commercial Fishing Vessel Registrations or the right to hold such issued by the Division of ~~Marine Fisheries~~ are suspended or revoked;~~or~~
  - (c) ~~Four-four~~ convictions within the last three years or the number of convictions ~~which-that~~ would cause suspension or revocation of ~~license, endorsement, or registration-licenses~~,

endorsements, or Commercial Fishing Vessel Registrations within the last three years shall result in the application being ~~denied; or~~ 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; and

- (d) ~~A~~ 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 but not be limited to 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; statutes,~~ any conviction for violation of G.S. 76-40 and any rule implementing or authorized by such ~~statute; statute,~~ any conviction of Chapter 75A of the North Carolina General Statutes and any rule implementing or authorized by such ~~statutes; 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; statutes,~~ any conviction of resist, obstruct, or delay involving a ~~Marine Patrol Officer or Wildlife Officer~~ Marine Fisheries Inspector or Wildlife Protector under G.S. ~~14-223; 14-223,~~ and any conviction involving assaultive behavior toward a ~~Marine Patrol Officer~~ Marine Fisheries Inspector or other governmental official of the Department of ~~Environment and Natural Resources~~ Environmental Quality or the Wildlife Resources Commission.~~Commission;~~

~~Applicants for the Standard Commercial Fishing License Eligibility Pool must provide certification that the applicant does not have four or more marine or estuarine resource violations during the previous three years.~~

- (3) ~~The~~ the responsible party shall not have transferred a Standard Commercial Fishing License granted by the Standard Commercial Fishing License Eligibility Board.~~Board;~~ and
- (4) ~~All applicants~~ an applicant for the Standard Commercial Fishing License Eligibility Pool ~~must~~ shall meet all other statutory eligibility requirements for ~~the~~ 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. May 1, 2022.*

15A NCAC 03O .0405 is proposed for reoption with substantive changes as follows:

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

(a) Documentation for applications:applications for determination of eligibility for the Standard Commercial Fishing License Eligibility Pool shall include:

- (1) ~~Statements~~ statements from individuals verifying the ~~applicant's involvement must~~ applicant's involvement in commercial fishing or the commercial fishing industry, which shall contain the individual's individual's name, address address, and telephone number and must shall be notarized-notarized by the individual;
- (2) ~~Proof~~ proof of income derived from commercial fishing or the commercial fishing industry. Proof of this income shall be tax ~~records-records; and~~
- (3) ~~The~~ 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 ~~he has~~ they have complied with federal laws.

~~(4)~~(b) All documents required by this Rule ~~must~~ shall be notarized.

~~(5)~~(c) Applications shall be legible and complete or they will be returned.

~~(6)~~(d) It ~~is~~ 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 ~~is~~ 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. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03O .0406 is proposed for reoption with substantive changes as follows:

**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~~ the applicant shall certify that the information on ~~his~~ their original application is correct and that ~~he desires~~ they desire to remain in the Standard Commercial Fishing License Eligibility Pool.
- ~~(2)~~ A certification form shall be provided and mailed to the applicant at the last known address by the ~~Division~~ Division of Marine Fisheries;
- ~~(3)~~ (2) ~~This certification,~~ the certification form with any ~~changes~~ changes, such as address, phone number, or updated fisheries involvement information since the last application or ~~certification~~ must certification, shall be notarized and submitted to the Division within 12 months of the initial application and annually ~~thereafter~~ thereafter; and
- ~~(4)~~ (3) ~~Failure~~ 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 ~~deleted~~ removed from the Standard Commercial Fishing License Eligibility Pool. ~~(5)~~ An applicant that has been ~~deleted~~ 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. May 1, 2022.*