

**Fiscal Analysis for Proposed Readoption and Amendments to
15A NCAC 03I, 03J, 03K, 03O, and 03R for
Definitions, Imported Species, Recordkeeping, Gear, Marketing Shellfish, and Licenses**

Rule Amendments: 15A NCAC 03I .0101, .0104, .0114, 03J .0105, .0109, .0305, 03K .0205, .0507, 03O .0101-.0105, .0107, .0109, .0110, .0113, 03R .0111

Name of Commission: N.C. Marine Fisheries Commission

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

Authority:

North Carolina General Statutes

G.S. 113-134.	Rules.
G.S. 113-168.	Definitions.
G.S. 113-168.1.	General provisions governing licenses and endorsements.
G.S. 113-168.2.	Standard Commercial Fishing License.
G.S. 113-168.3.	Retired Standard Commercial Fishing License.
G.S. 113-168.4.	Sale of fish.
G.S. 113-168.5.	License endorsements for Standard Commercial Fishing License.
G.S. 113-168.6.	Commercial fishing vessel registration.
G.S. 113-169.2.	Shellfish license for North Carolina residents without a SCFL.
G.S. 113-169.3.	Licenses for fish dealers.
G.S. 113-169.4.	Licensing of ocean fishing piers; fees.
G.S. 113-169.5.	Land or sell license; vessels fishing beyond territorial waters.
G.S. 113-170.	Exportation and importation of fish and equipment.
G.S. 113-170.3.	Record-keeping requirements.
G.S. 113-170.4.	Rules as to possession, transportation, and disposition of fisheries resources.
G.S. 113-171.1.	Use of spotter planes in commercial fishing operations regulated.
G.S. 113-173.	Recreational Commercial Gear License.

G.S. 113-174.	Definitions.
G.S. 113-174.1.	License required; general provisions governing licenses.
G.S. 113-174.2.	Coastal Recreational Fishing License.
G.S. 113-174.3.	For-Hire Licenses.
G.S. 113-182.	Regulation of fishing and fisheries.
G.S. 113-187.	Penalties for violations of Subchapter and rules.
G.S. 113-201.	Legislative findings and declaration of policy; authority of Marine Fisheries Commission.
G.S. 113-202.	New and renewal leases for shellfish cultivation; termination of leases issued prior to January 1, 1966.
G.S. 113-221.1.	Proclamations; emergency review.
G.S. 147-84.	Refund of excess payments.
G.S. 143B-289.52.	Marine Fisheries Commission – powers and duties.

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. Sixteen rules in 15A NCAC 03I, 03J, 03K, and 03O are proposed for readoption with substantive changes and two rules (15A NCAC 03K .0507, 03R .0111) are proposed for amendment related to definitions, imported species, recordkeeping, gear, marketing shellfish, and licenses.

II. Summary

Proposed rules for readoption seek to improve clarity and efficiency to rules related to definitions, imported species, recordkeeping, gear, marketing shellfish, and licenses. Overall, most changes are technical in nature and contain no anticipated fiscal impacts. However, a small set of proposed changes would incur benefits to the State from increased efficiency across these programs. Most benefits would be time-cost reductions for both the Division of Marine Fisheries (DMF) staff and stakeholders, as well as better protection of the resources, while there are also small benefits related to removing a time requirement for obtaining a license. Nominal costs to commercial trotline fishermen are anticipated for gear marking requirements, as well as small opportunity costs for a portion of shellfish lease holders to obtain and comply with the reporting requirements of an aquaculture permit. No additional costs are anticipated, including no additional impacts to enforcement.

III. Introduction and Purpose of Rule Changes

Sixteen of these 18 rules of the Marine Fisheries Commission are subject to readoption per G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules. The group of rules relate to definitions, imported species, recordkeeping, gear, marketing shellfish, and licenses. Proposed amendments make minor technical and clarifying changes to these 18 rules, which incur no impact. Throughout the rules, elements that merely repeat the content of law are proposed to be struck, per G.S. 150B-19. These proposed deletions bear no impact on the state. However, a small subset of proposed amendments would likely incur a small impact to the State or stakeholders. These proposed amendments are described below, while all proposed changes with no anticipated impacts will not be discussed further.

Definitions

Rule 15A NCAC 03I .0101 contains definitions that apply to Chapter 03, Marine Fisheries. Proposed amendments include minor items such as updating the name of the department and standardizing the style of each term. Several substantive amendments are also proposed. In Sub-Item (1)(e), a new definition for "nongovernmental conservation organization" is proposed to conform to requirements of Session Law 2015-241, Section 14.10A. for the issuance of Scientific and Educational Activity Permits (SEAPs). A SEAP can be issued to an educational institution, scientific institution, or nongovernmental conservation organization to take marine or estuarine resources in support of their respective endeavors that would otherwise not be allowed. It exempts the permit holder from North Carolina license, rule, proclamation, or statutory requirements. The DMF has issued an average of 51 permits per year from 2015-2019 (see Appendix I, Table 1). Since 2015, at least one permit has been issued to a nongovernmental conservation organization, but the permit holders often qualify for a permit based on multiple eligibility criteria (educational institution, scientific institution, nongovernmental conservation organization) and so are not strictly categorized. This conforming rule change has negligible impacts to the State as a result.

In Sub-Item (1)(f), a new definition for "polluted" is proposed to clarify its meaning versus incidences of the term "prohibited" consistent with 15A NCAC 18A .0900. Several rules in 15A NCAC 03 and 18A are proposed for amendment (as addressed in separate analyses) to delete "prohibited (polluted)" and replace it with "polluted". The use of "prohibited" in the current rules is problematic in that it is meant to define an area that is eligible as a relay area, but the DMF Shellfish Sanitation Program and 15A NCAC 18A rules use "prohibited" as a specific shellfish harvest classification from areas where no relay can occur. The National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish (Model Ordinance), which is a minimum set of guidelines that all state shellfish control authorities must meet, also uses "prohibited" as a classification where relay is not eligible, so for these rule amendments, the use of "prohibited" is proposed to be changed to "polluted" for clarity. Effectively, this does not change anything for the DMF or the public as the practice of relay is already limited only to areas classified as "restricted" or "conditionally approved" and not "prohibited" consistent with the Model Ordinance. Sub-Item (2)(j), "shellfish planting effort on leases and franchises" is proposed to be amended similarly.

Existing Sub-Item (1)(i), "Seed Oyster Management Area", is proposed to be deleted in concert with a definition for it proposed to be added to 15A NCAC 03K .0208 (covered in a separate analysis).

Sub-Item (2)(d), "deuration", is proposed for amendment for consistency with the same term in 15A NCAC 18A .0301 by deleting the reference to natural means. Deuration by natural means is redundant with relay activities (covered by other rules) that allow for cleansing potentially contaminated shellfish in waters designated for that purpose. The proposed amendment clarifies deuration is distinct from the natural cleansing that can occur via relay.

A new term is proposed to be added as Sub-Item (5)(d) for "franchise", consistent with G.S. 113-206 and 15A NCAC 03O .0200.

Proposed amendments to these five terms increase clarity for requirements across MFC rules and conform rule language with ongoing management practice by the DMF. As a result, each rule is expected to incur non-quantifiable benefits to the State from increased efficiencies.

Sub-Item (2)(a), "aquaculture operation", is proposed to be amended to include non-native species consistent with proposed amendments to 15A NCAC 03I .0104 covered in the next section of this analysis. Proposed amendments also add private bottom, effectively subjecting all shellfish lease holders to the requirement to hold an Aquaculture Operation Permit (AOP). In 2020, there were an estimated 168 individual shellfish lease holders. Of these, 101 held AOPs, so 60% of all estimated shellfish lease holders had AOPs in 2020. Due to the increase in shellfish water column leases and the use of intensive gear (cages, racks, bags, or floats) for both bottom and water column leases over the last five years, many growers are already required to obtain AOPs. Under the proposed requirement an additional 67 shellfish lease holders would be required to obtain AOPs.

With an increasing trend in the use of intensive gear and in shellfish leases overall, it is important for the DMF to be able to track, monitor, and quantify activities to better manage the resource. These functions are fulfilled efficiently by the AOPs and the associated conditions permit holders must abide by. Requiring AOPs for all shellfish lease holders would also help address potential issues such as public health concerns of product being moved on and off shellfish leases without any documentation or under reporting of this product across all shellfish leases. By requiring all shellfish lease holders to obtain an AOP, the efficiency of the DMF would increase as would the accountability of the shellfish aquaculture industry, creating a non-quantifiable benefit for the State, stakeholders, and ultimately the resource. While shellfish lease holders are already subject to individual requirements (conditions) such as gear, area, times, sampling, and recordkeeping and report submission, the AOP consolidates all requirements into a single management tool. This tool can be applied in a timely manner to situations of non-compliance via the DMF's notice of violation processes for suspension or revocation of permits, including the opportunity for the permit holder to demonstrate compliance before the suspension process proceeds. This is especially important for addressing potential public health issues that can come from the mismanagement of shellfish that need to be immediately addressed. Overall, these changes add flexibility for the State that incurs opportunity cost savings, facilitates timely handling of public health issues, and ultimately enhances the resource.

The workload for shellfish lease holders would increase slightly, but not significantly by requiring AOPs. Each year, the DMF sends a letter to every shellfish lease holder explaining the permits that are required for various activities and how to apply. To apply for an AOP, the shellfish lease holder can submit the application online and be approved without having to travel to a DMF office location. The permit is free and is only a few pages to complete. The AOP is renewed on an annual basis and the specific permit conditions require the permittee to submit an annual report. The information required for the annual report is similar to the information already required annually for shellfish leases, regardless of having an AOP. Therefore, the reporting requirements for the AOP would incur a small opportunity cost, estimated to be less than one hour, even for those shellfish lease holders that hold more than one AOP. Based on 2020 data, 67 shellfish lease holders would incur this cost.

Imported Species

To conform with requirements of Session Law 2017-190, Section 3.1 (as amended by Session Law 2018-114, Section 17), proposed amendments to 15A NCAC 03I .0104 allow the importation of American eels from Virginia and South Carolina, in addition to Maryland, for use in an aquaculture operation without obtaining a Permit to Introduce, Transfer, or Hold Imported Marine and Estuarine Organisms that would otherwise be required. The law change makes it easier to import eels from these states into an aquaculture operation by removing the time and financial burdens associated with sending a pathologist a sample of 60 eels from every proposed shipment to obtain a disease-free certificate, creating a time-cost benefit for an aquaculture operator. This also means the law allows for the importation of these eels without notification to the DMF or having disease-free certification, but since all American eel comprise one panmictic population, meaning they are a single breeding population that exhibits random mating, risk to the State's marine and estuarine resources from disease is extremely low. Only one such permit has ever been issued for American eels, so the impacts are expected to be negligible overall.

Additional proposed amendments consistently state "non-native species that may thrive if introduced into Coastal Fishing Waters". Proposed amendments also state sizes and quantities of species are required to be included in the disease-free certificate, not just the type of species. These changes conform the rule to ongoing practices of the DMF and stakeholders, making the rule clearer and more consistent. This creates a non-quantifiable benefit to the State from increased efficiencies as well as better protection of the resources.

Recordkeeping

Proposed amendments to 15A NCAC 03I .0114 broaden the types of recordkeeping permissible for inspection by Marine Fisheries Inspectors. Currently, fish dealers must make paper copies of trip tickets available at the dealer location. Proposed amendments add electronic copies as an option, so that fish dealers must have either the paper copy or electronic copy. This change would reflect updated technological methods of recordkeeping and provide flexibility to the fish dealers who have made the transition to electronic documentation, creating a time-cost benefit. A second proposed amendment specifies documentation must show not only the quantity, but the species name of the fish (information already obtained by fish dealers) to help better identify the stock of a dealer and prevent any confusion, misidentification, or clerical error that may arise from not keeping accurate track of the type of catch, creating non-quantifiable benefits to the State and fish dealers from increased efficiencies as well as better protection of the resources.

Gear

Amendments are proposed to several rules pertaining to the use of various fishing gears, namely purse seines, long-haul seines, and trotlines. Overall, proposed amendments conform rule language with ongoing management practice by the DMF. Each rule is expected to incur benefits to the State from increased efficiencies by making rule requirements more clear and consistent. The majority of these proposed amendments incur no additional impacts; proposed changes anticipated to incur impacts for each gear type are summarized here.

Purse Seines

Effective Jan. 1, 2013, Session Law 2012-190, Section 3.(a) makes it a Class A1 misdemeanor to take menhaden or Atlantic thread herring by the use of a purse seine net deployed by a mother ship and one or more runner boats in coastal fishing waters. This law change also repealed Session Law 2007-320, which had previously only applied this restriction in the State ocean waters off Brunswick County. Despite these restrictions, the majority of Rule 15A NCAC 03J .0105, as well as 15A NCAC 03R .0111 that sets areas and times where the use of a purse seine is prohibited, are still needed for management of purse seines that are not covered by the requirements of the law changes. For example, the use of a purse seine without the configuration of a mother ship and one or more runner boats, while rare, is still allowed under the law, and so requirements are still needed to manage the affected fisheries should they ever occur.

Proposed amendments to 03J .0105 are needed to conform to the 2012 law and to update the proclamation authority of the Fisheries Director for the management of purse seines to be consistent with similar proclamation authority for other gear rules. Additionally, the rule was reorganized to group all requirements for closed areas in Paragraph (b) and to group the exceptions that allow open areas in paragraphs (c), (d), and (e). The current rule contains a mix of closed and open areas throughout the rule, so the proposed amendments make the rule clearer while still retaining the same requirements of the current rule.

Proposed amendments to 15A NCAC 03R .0111 link to 15A NCAC 03J .0105 and remove redundant "unlawful" language, since the unlawful activities are set forth in 03J .0105, leaving only the coordinates of where it is unlawful to do those activities in 03R .0111, consistent with other rules in Subchapter 03R. The standard format for listing geographic descriptions and coordinate pairs has also been applied to 03R .0111.

Proposed amendments to 15A NCAC 03O .0103 and .0104 conform them to requirements of Session Law 2013-384, Section 2 that deleted menhaden endorsements from G.S. 113-168.5 and repealed G.S. 113-169, the latter of which had authorized the Menhaden License for Nonresidents Without a Standard Commercial Fishing License. Additionally, the law modified G.S. 113-168.2(a1) to remove the authority for MFC rule to provide an exemption from the requirement for the holder of a SCFL to use only one vessel in a commercial fishing operation at any given time in a menhaden operation. Specifically, the exemption for the use of a purse seine is proposed to be deleted from 15A NCAC 03O .0103 and reference to the Menhaden License for Nonresidents Without a Standard Commercial Fishing License is proposed to be deleted from 15A NCAC 03O .0104.

Proposed amendments to these four rules increase clarity for requirements across MFC rules and conform rule language with ongoing management practice by the DMF. As a result, each rule is expected to incur non-quantifiable benefits to the State from increased efficiencies.

Long-Haul Seines

Proposed amendments to 15A NCAC 03J .0109 delete text stating "excluding operations with nets made entirely of monofilament and having a mesh length of three inches or greater". This language was originally added to state that individuals using runaround gill nets are exempt from the swipe net requirements, but the language is confusing and not necessary. Individuals who are

engaged in a swipe net fishing operation using monofilament in their seine would still have to meet all the requirements of this rule. Individuals who are engaged in a swipe net operation using small mesh monofilament would have the bunt net attached to the monofilament seine. These fishermen do not want to gill the fish, they want to be able to bail the fish out of the bunt net. This method of swipe netting is less time consuming for fishermen. Marine Fisheries Inspectors do not need this language in the rule to determine if the individual is strike netting or swipe netting. The fact that a bunt net will be used will determine that the individual will need to meet the buoy and flag requirements and escape panel requirements in 15A NCAC 03J .0109 instead of the buoy and marking requirements for gill nets in 15A NCAC 03J .0103. Proposed amendments are clarifying in nature and would increase efficiencies for the DMF.

Trotlines

The proposed amendments to 15A NCAC 03J .0305 add requirements for marking trotline gear used in a commercial fishing operation. The amendments would establish consistency across other similar rules for the identification of gear that is fished commercially.

These new marking requirements for trotlines would facilitate enforcement by allowing Marine Fisheries Inspectors to be able to easily identify commercial trotlines. Annually, North Carolina averages 14 trotline participants that would be required to mark their gear under the proposed changes.

An online search of Memphis Net and Twine Company, which is a popular supplier of commercial fishing supplies, revealed that they have four different types of buoy style PVC floats available that would be legal for use on commercial trotlines. These buoys range in size from 5" outside diameter by 11" length to 9" outside diameter by 16" length. The prices ranged from \$7.43–\$26.40 per buoy. It is important to note that any of the four different buoys listed can be cut into two even pieces, thereby creating two legal buoys for use on a commercial trotline or the whole buoy may be used.

Some fishermen have their own devices made to aid in the engraving process. Aside from a fisherman fabricating their own tool, a commercial tool can be purchased at a cost between \$300.00 to \$400.00. If a fisherman chooses to use engraved metal or plastic tags, identification tags commonly used are \$.55 per tag with all of the required information. If a fisherman has never purchased these tags, there is generally a \$50.00 set up fee for their specific stamp to be made and it is held for 10 years.

There is no standard length for commercial trotlines. It is up to the fisherman how long they want them to be. Likewise, there is no standard number of trotlines that a fisherman will use. Currently in the Albemarle Sound region, a commercial trotline fisherman will typically use four or five, 100 to 200-yard trotlines.

The proposed changes are not expected to alter the behavior of fishermen. Fishermen are likely to make the required adjustments to their gear when they are preparing for the next season, incurring a small opportunity cost. Anticipated total costs to all affected fishermen range from \$1,178 (four small buoys cut in half with eight tags for four trotlines for 14 participants) to \$9,296 (10 large buoys with a commercial engraver for five trotlines for 14 participants).

Overall, the proposed amendments for trotlines would benefit Marine Fisheries Inspectors by making commercial trotlines easier to identify and monitor, incurring non-quantifiable benefits to the State from increased efficiencies. There may also be a reduction in the potential for user conflicts by making the gear easier to identify for boaters and other fishermen.

Marketing Shellfish

Proposed amendments to 15A NCAC 03K .0205 and .0507 delete requirements for a certification form because the form is obsolete and is redundant with shellfish harvest and dealer tag requirements (15A NCAC 03K .0109 and 18A .0425), clarifying requirements overall. Additional amendments conform to requirements of G.S. 113-202(r) for equipment placed on shellfish leases within 18 inches of the leased bottom and are for clarifying purposes only, without additional meaningful impacts. Proposed amendments increase clarity for requirements across MFC rules and conform rule language with ongoing management practice by the DMF, incurring non-quantifiable benefits to the State from increased efficiencies.

Licenses

Proposed amendments to 15A NCAC 03O .0101 and .0102 consolidate procedures and requirements to obtain licenses in 03O .0101 and requirements for the renewal of licenses in 03O .0102. In so doing, the rules are also reorganized to list residency requirements by license type and to alphabetize licenses, for clarity, increasing efficiencies for the DMF and stakeholders. Proposed amendments also remove the requirement to obtain the Recreational Fishing Tournament License to Sell Fish 30 days in advance of the tournament effective date. This would remove burden from the license holder, especially if the license holder has to reschedule a tournament during hurricane season that may be delayed due to a storm, providing a small benefit for license holders. The DMF processes the permits regardless of the time period in which the applications are submitted, so there are no costs incurred for the State.

IV. Fiscal Impact Analysis

As part of the readoption process, these 18 rules are proposed with amendments intended to increase clarity and efficiency around definitions, imported species, recordkeeping, gear, marketing shellfish, and licenses. Overall, the majority of these proposed amendments offer technical changes and contain no anticipated fiscal impacts; proposed amendments anticipated to incur impacts are summarized above.

Summary of Potential Economic Benefits

Of the rules with impacts, a small set of proposed changes would incur non-quantifiable benefits to the State from increased efficiency across these programs. Most benefits would be time-cost reductions for both the DMF staff and stakeholders, as well as better protection of the resources, while there is a small benefit for license holders related to removing a time requirement for obtaining a tournament license.

Specifically, proposed amendments to 15A NCAC 03I .0101, Sub-Item (2)(a), "aquaculture operation", is proposed to be amended to add private bottom, effectively subjecting all shellfish lease holders to the requirement to hold an AOP. By requiring all shellfish lease holders to obtain

an AOP the DMF would be better equipped to track, monitor, and quantify shellfish lease activities and better manage the resource. The efficiency of the DMF would increase as would the accountability of the shellfish aquaculture industry, creating a non-quantifiable benefit for the State, stakeholders, and ultimately the resource.

Proposed amendments to 15A NCAC 03I .0114 broaden the types of recordkeeping permissible for inspection by Marine Fisheries Inspectors by adding electronic trip tickets as an option. This change would reflect updated technological methods of recordkeeping and provide flexibility to the fish dealers who have made the transition to electronic documentation, creating a time-cost benefit for participating dealers.

Proposed amendments to 15A NCAC 03J .0305 for marking requirements for trotlines would benefit Marine Fisheries Inspectors by making commercial trotlines easier to identify and monitor, incurring non-quantifiable benefits to the State from increased efficiencies. There may also be a reduction in the potential for user conflicts by making the gear easier to identify for boaters and other fishermen.

Proposed amendments to 15A NCAC 03O .0101 remove the requirement to obtain the Recreational Fishing Tournament License to Sell Fish 30 days in advance of the tournament effective date. This would remove burden from the license holder, especially if the license holder has to reschedule a tournament during hurricane season that may be delayed due to a storm, providing a small but non-quantifiable benefit for license holders. The DMF processes the permits regardless of the time period in which the applications are submitted, so there are no costs incurred for the State by the removal of the time requirement.

Summary of Potential Economic Costs

Nominal costs to commercial trotline fishermen are anticipated for compliance with gear marking requirements, as well as small opportunity costs for a portion of shellfish lease holders to obtain and comply with the reporting requirements of an aquaculture permit. No additional costs are anticipated, including no additional impacts to enforcement.

Specifically, the proposed amendments to 15A NCAC 03I .0101(2)(a) that would result in all shellfish lease holders being subject to the requirement to hold an AOP would increase the workload for shellfish lease holders slightly, but not significantly. The permit application is free and can be submitted online, consisting of only a few pages. The subsequent reporting requirements for the AOP would incur a small opportunity cost, estimated to be less than one hour per year even for those shellfish lease holders that hold more than one AOP. Based on 2020 data, 67 shellfish lease holders would incur this cost.

Proposed amendments to 15A NCAC 03J .0305 would subject commercial trotline fishermen to marking requirements. Annually, North Carolina averages 14 trotline participants that would be required to mark their gear under the proposed changes. Anticipated total costs to all affected fishermen range from \$1,178 to \$9,296 in the aggregate. The proposed changes are not expected to alter the behavior of fishermen. Fishermen are likely to make the required adjustments to their gear when they are preparing for the next season, incurring a small opportunity cost.

Appendix I.

Supporting Data

Table 1. Number of Scientific and Educational Activity Permits (SEAP) issued from 2015-2019.

Year	SEAPs (#)
2015	53
2016	53
2017	45
2018	51
2019	55
Average	51

Appendix II.

Proposed Rules for Readoption

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

SUBCHAPTER 03I – GENERAL RULES

SECTION .0100 – GENERAL RULES

15A NCAC 03I .0101 DEFINITIONS

All definitions set out in G.S. 113, Subchapter IV and the following additional terms shall apply to this Chapter:

- (1) Enforcement and management terms:
 - (a) ~~Commercial Quota. Total~~ "Commercial quota" means total quantity of fish allocated for harvest by commercial fishing operations.
 - (b) ~~Educational Institution. A~~ "Educational institution" means a college, university, or community college accredited by an accrediting agency recognized by the U.S. Department of Education; an Environmental Education Center certified by the N.C. Department of Environment and Natural Resources ~~Environment and Natural Resources~~ Environmental Quality Office of Environmental Education and Public Affairs; or a zoo or aquarium certified by the Association of Zoos and Aquariums.
 - (c) ~~Internal Coastal Waters or Internal Waters. All~~ "Internal Coastal Waters" or "Internal Waters" means all Coastal Fishing Waters except the Atlantic Ocean.
 - (d) Length of ~~finfish~~ finfish:
 - (i) ~~Curved fork length. A~~ "Curved fork length" means a length determined by measuring along a line tracing the contour of the body from the tip of the upper jaw to the middle of the fork in the caudal (tail) fin.
 - (ii) ~~Fork length. A~~ "Fork length" means a length determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the middle of the fork in the caudal (tail) fin, except that fork length for billfish is measured from the tip of the lower jaw to the middle of the fork of the caudal (tail) fin.
 - (iii) ~~Pectoral fin curved fork length. A~~ "Pectoral fin curved fork length" means a length of a beheaded fish from the dorsal insertion of the pectoral fin to the fork of the tail measured along the contour of the body in a line that runs along the top of the pectoral fin and the top of the caudal keel.

- (iv) ~~Total length.~~ A "Total length" means a length determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the tip of the compressed caudal (tail) fin.
- (e) "Nongovernmental conservation organization" means an organization whose primary mission is the conservation of natural resources.
- (f) "Polluted" means any shellfish growing waters:
 - (i) that are contaminated with fecal material, pathogenic microorganisms, poisonous or deleterious substances, or marine biotoxins that render the consumption of shellfish from those growing waters hazardous;
 - (ii) that have been determined through a sanitary survey as defined in 15A NCAC 18A .0901 to be adjacent to a sewage treatment plant outfall or other point source outfall with public health significance;
 - (iii) that have been determined through a sanitary survey as defined in 15A NCAC 18A .0901 to be in or adjacent to a marina;
 - (iv) that have been determined through a sanitary survey as defined in 15A NCAC 18A .0901 to be impacted by other potential sources of pollution that render the consumption of shellfish from those growing waters hazardous; or
 - (v) where the Division of Marine Fisheries is unable to complete the monitoring necessary to determine the presence of contamination or potential pollution sources.
- ~~(e)(g)~~ Recreational Possession Limit. ~~Restrictions~~ "Recreational possession limit" means restrictions on size, quantity, season, time period, area, means, and methods where take or possession is for a recreational purpose.
- ~~(f)(h)~~ Recreational Quota. ~~Total~~ "Recreational quota" means total quantity of fish allocated for harvest for a recreational purpose.
- ~~(g)(i)~~ Regular Closed Oyster Season. ~~—~~ "Regular closed oyster season" means March 31 through October 15, unless amended by the Fisheries Director through proclamation authority.
- ~~(h)(j)~~ Scientific Institution. ~~One~~ "Scientific institution" means one of the following entities:
 - (i) ~~An~~ an ~~educational institution as defined in this Item;~~
 - (ii) ~~A~~ a ~~state or federal agency charged with the management of marine or estuarine resources; or~~
 - (iii) ~~A~~ a ~~professional organization or secondary school working under the direction of, or in compliance with mandates from, the entities listed in Subitems (h)(i) and (ii) of this Item.~~
- (i) ~~Seed Oyster Management Area.~~ An open harvest area that, by reason of poor growth characteristics, predation rates, overcrowding or other factors, experiences poor utilization

~~of oyster populations for direct harvest and sale to licensed dealers and is designated by the Marine Fisheries Commission as a source of seed for public and private oyster culture.~~

(2) Fishing Activities:~~activities:~~

- (a) ~~Aquaculture operation.~~ An "Aquaculture operation" means an operation that produces artificially propagated stocks of marine or estuarine ~~resources~~ resources, or other non-native species that may thrive if introduced into Coastal Fishing Waters, or obtains such stocks from permitted sources for the purpose of rearing on private bottom (with or without the superadjacent water column) or in a controlled environment. A controlled environment provides and maintains throughout the rearing process one or more of the following:
- (i) food;
 - (ii) predator protection;
 - (iii) salinity;
 - (iv) temperature controls; or
 - ~~(v) water circulation,~~
 - (v) water circulation, utilizing technology not found in the natural environment.
- (b) ~~Attended.~~ Being "Attended" means being in a vessel, in the water or on the shore, and immediately available to work the gear and be within 100 yards of any gear in use by that person at all times. Attended does not include being in a building or structure.
- (c) ~~Blue Crab Shedding.~~ The "Blue crab shedding" means the process whereby a blue crab emerges soft from its former hard exoskeleton. A shedding operation is any operation that holds peeler crabs in a controlled environment. A controlled environment provides and maintains throughout the shedding process one or more of the following:
- (i) food;
 - (ii) predator protection;
 - (iii) salinity;
 - (iv) temperature controls; or
 - (v) water circulation, utilizing technology not found in the natural environment. A shedding operation does not include transporting pink or red-line peeler crabs to a permitted shedding operation.
- (d) ~~Depuration. Purification.~~ "Depuration" means mechanical purification or the removal of adulteration from live oysters, clams, or mussels by any ~~natural~~ or artificially controlled means.
- (e) ~~Long Haul Operations.~~ Fishing "Long haul operation" means fishing a seine towed between two vessels.

- (f) ~~Peeler Crab.~~ A "Peeler crab" means a blue crab that has a soft shell developing under a hard shell and having a white, pink, or red-line or rim on the outer edge of the back fin or flipper.
 - (g) ~~Possess.~~ Any "Possess" means any actual or constructive holding whether under claim of ownership or not.
 - (h) ~~Recreational Purpose.~~ A "Recreational purpose" means a fishing activity that is not a commercial fishing operation as defined in G.S. 113-168.
 - (i) ~~Shellfish marketing from leases and franchises.~~ The "Shellfish marketing from leases and franchises" means the harvest of oysters, clams, scallops, or mussels from privately held shellfish bottoms and lawful sale of those shellfish to the public at large or to a licensed shellfish dealer.
 - (j) ~~Shellfish planting effort on leases and franchises.~~ The "Shellfish planting effort on leases and franchises" means the process of obtaining authorized cultch materials, seed shellfish, and ~~polluted~~ shellfish stocks from polluted waters and the placement of those materials on privately held shellfish bottoms for increased shellfish production.
 - (k) ~~Shellfish production on leases and franchises.~~ "Shellfish production on leases and franchises" means:
 - (i) ~~The~~ the culture of oysters, clams, scallops, or mussels on shellfish leases and franchises from a sublegal harvest size to a marketable size.
 - (ii) ~~The~~ the transplanting (relay) of oysters, clams, scallops, or mussels from areas closed due to pollution to shellfish leases and franchises in open waters and the natural cleansing of those shellfish.
 - (l) ~~Swipe Net Operations.~~ Fishing "Swipe net operations" means fishing a seine towed by one vessel.
 - (m) ~~Transport.~~ Ship, "Transport" means to ship, carry, or cause to be carried or moved by public or private carrier by land, sea, or air.
 - (n) ~~Use.~~ Employ, "Use" means to employ, set, operate, or permit to be operated or employed.
- (3) Gear:
- (a) ~~Bunt Net.~~ The "Bunt net" means the last encircling net of a long haul or swipe net operation constructed of small mesh webbing. The bunt net is used to form a pen or pound from which the catch is dipped or bailed.
 - (b) ~~Channel Net.~~ A "Channel net" means a net used to take shrimp that is anchored or attached to the bottom at both ends or with one end anchored or attached to the bottom and the other end attached to a vessel.
 - (c) ~~Commercial Fishing Equipment or Gear.~~ All "Commercial fishing equipment or gear" means all fishing equipment used in Coastal Fishing Waters except:
 - (i) ~~Cast~~ cast nets;

- (ii) ~~Collapsible-collapsible~~ crab traps, a trap used for taking crabs with the largest open dimension no larger than 18 inches and that by design is collapsed at all times when in the water, except when it is being retrieved from or lowered to the bottom;
 - (iii) ~~Dip-dip~~ nets or scoops having a handle not more than eight feet in length and a hoop or frame to which the net is attached not exceeding 60 inches along the perimeter;
 - (iv) ~~Gigs-gigs~~ or other pointed implements that are propelled by hand, whether or not the implement remains in the hand;
 - (v) ~~Hand-hand~~ operated rakes no more than 12 inches wide and weighing no more than six pounds and hand operated tongs;
 - (vi) ~~Hook and line and bait and line~~ Hook and line, and bait and line equipment other than multiple-hook or multiple-bait trotline;
 - (vii) ~~Landing-landing~~ nets used to assist in taking fish when the initial and primary method of taking is by the use of hook and line;
 - (viii) ~~Minnow-minnow~~ traps when no more than two are in use;
 - (ix) ~~Seines-seines~~ less than 30 feet in length;
 - (x) ~~Spears-spears~~, Hawaiian slings, or similar devices that propel pointed implements by mechanical means, including elastic tubing or bands, pressurized gas, or similar means.
- (d) ~~Corkline.~~ The "Corkline" means the support structure a net is attached to that is nearest to the water surface when in use. Corkline length is measured from the outer most mesh knot at one end of the corkline following along the line to the outer most mesh knot at the opposite end of the corkline.
 - (e) ~~Dredge.~~ A "Dredge" means a device towed by engine power consisting of a frame, tooth bar or smooth bar, and catchbag used in the harvest of oysters, clams, crabs, scallops, or conchs.
 - (f) ~~Fixed or stationary net.~~ A "Fixed or stationary net" means a net anchored or staked to the bottom, or some structure attached to the bottom, at both ends of the net.
 - (g) ~~Fyke Net.~~ An "Fyke net" means an entrapment net supported by a series of internal or external hoops or frames, with one or more lead or leaders that guide fish to the net mouth. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).

- (h) ~~Gill Net.~~ A "Gill net" means a net set vertically in the water to capture fish by entanglement of the gills in its mesh as a result of net design, construction, mesh length, webbing diameter, or method in which it is used.
- (i) ~~Headrope.~~ The "Headrope" means the support structure for the mesh or webbing of a trawl that is nearest to the water surface when in use. Headrope length is measured from the outer most mesh knot at one end of the headrope following along the line to the outer most mesh knot at the opposite end of the headrope.
- (j) ~~Hoop Net.~~ An "Hoop net" means an entrapment net supported by a series of internal or external hoops or frames. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap the fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).
- (k) ~~Lead.~~ A "Lead" means a mesh or webbing structure consisting of nylon, monofilament, plastic, wire, or similar material set vertically in the water and held in place by stakes or anchors to guide fish into an enclosure. Lead length is measured from the outer most end of the lead along the top or bottom line, whichever is longer, to the opposite end of the lead.
- (l) ~~Mechanical methods for clamming. Dredges.~~ "Mechanical methods for clamming" means dredges, hydraulic clam dredges, stick rakes, and other rakes when towed by engine power, patent tongs, kicking with propellers or deflector plates with or without trawls, and any other method that utilizes mechanical means to harvest clams.
- (m) ~~Mechanical methods for oystering. Dredges.~~ "Mechanical methods for oystering" means dredges, patent tongs, stick rakes, and other rakes when towed by engine power, and any other method that utilizes mechanical means to harvest oysters.
- (n) ~~Mesh Length.~~ The "Mesh length" means the distance from the inside of one knot to the outside of the opposite knot, when the net is stretched hand-tight in a manner that closes the mesh opening.
- (o) ~~Pound Net Set.~~ A "Pound net set" means a fish trap consisting of a holding pen, one or more enclosures, lead or leaders, and stakes or anchors used to support the trap. The holding pen, enclosures, and lead(s) are not conical, nor are they supported by hoops or frames.
- (p) ~~Purse Gill Nets.~~ Any "Purse gill net" means any gill net used to encircle fish when the net is closed by the use of a purse line through rings located along the top or bottom line or elsewhere on such net.
- (q) ~~Seine.~~ A "Seine" means a net set vertically in the water and pulled by hand or power to capture fish by encirclement and confining fish within itself or against another net, the shore or bank as a result of net design, construction, mesh length, webbing diameter, or method in which it is used.

- (4) ~~Fish habitat areas.~~ The "Fish habitat areas" means the estuarine and marine areas that support juvenile and adult populations of fish species, as well as forage species utilized in the food chain. Fish habitats as used in this definition, are vital for portions of the entire life cycle, including the early growth and development of fish species. Fish habitats in all Coastal Fishing Waters, as determined through marine and estuarine survey sampling, include:
- (a) ~~Anadromous fish nursery areas.~~ Those "Anadromous fish nursery areas", which means those areas in the riverine and estuarine systems utilized by post-larval and later juvenile anadromous fish.
 - (b) ~~Anadromous fish spawning areas.~~ Those "Anadromous fish spawning areas", which means those areas where evidence of spawning of anadromous fish has been documented in Division sampling records through direct observation of spawning, capture of running ripe females, or capture of eggs or early larvae.
 - (c) ~~Coral:~~ "Coral", which means:
 - (i) ~~Fire fire~~ corals and hydrocorals (Class Hydrozoa);
 - (ii) ~~Stony stony~~ corals and black corals (Class Anthozoa, Subclass Scleractinia); or
 - (iii) Octocorals; Gorgonian corals (Class Anthozoa, Subclass Octocorallia), which include sea fans (*Gorgonia* sp.), sea whips (*Leptogorgia* sp. and *Lophogorgia* sp.), and sea pansies (*Renilla* sp.).
 - (d) ~~Intertidal Oyster Bed.~~ A "Intertidal oyster bed", which means a formation, regardless of size or shape, formed of shell and live oysters of varying density.
 - (e) ~~Live rock.~~ Living "Live rock", which means living marine organisms or an assemblage thereof attached to a hard substrate, excluding mollusk shells, but including dead coral or rock. Living marine organisms associated with hard bottoms, banks, reefs, and live rock include:
 - (i) Coralline algae (Division Rhodophyta);
 - (ii) *Acetabularia* sp., mermaid's fan and cups (*Udotea* sp.), watercress (*Halimeda* sp.), green feather, green grape algae (*Caulerpa* sp.) (Division Chlorophyta);
 - (iii) *Sargassum* sp., *Dictyopteris* sp., *Zonaria* sp. (Division Phaeophyta);
 - (iv) ~~Sponges sponges~~ (Phylum Porifera);
 - (v) ~~Hard hard~~ and soft corals, sea anemones (Phylum Cnidaria), including fire corals (Class Hydrozoa), and Gorgonians, whip corals, sea pansies, anemones, *Solenastrea* (Class Anthozoa);
 - (vi) Bryozoans (Phylum Bryozoa);
 - (vii) ~~Tube tube~~ worms (Phylum Annelida), fan worms (*Sabellidae*), feather duster and Christmas treeworms (*Serpulidae*), and sand castle worms (*Sabellaridae*);
 - (viii) ~~Mussel mussel~~ banks (Phylum Mollusca: Gastropoda); and
 - (ix) ~~Acorn acorn~~ barnacles (Arthropoda: Crustacea: *Semibalanus* sp.).

- (f) ~~Nursery areas. Areas~~ "Nursery areas", which means areas that for reasons such as food, cover, bottom type, salinity, temperature, and other factors, young finfish and crustaceans spend the major portion of their initial growing season. Primary nursery areas are those areas in the estuarine system where initial post-larval development takes place. These are areas where populations are uniformly early juveniles. Secondary nursery areas are those areas in the estuarine system where later juvenile development takes place. Populations are composed of developing sub-adults of similar size that have migrated from an upstream primary nursery area to the secondary nursery area located in the middle portion of the estuarine system.
- (g) ~~Shellfish producing habitats. Historic~~ "Shellfish producing habitats", which means historic or existing areas that shellfish, such as clams, oysters, scallops, mussels, and whelks use to reproduce and survive because of such favorable conditions as bottom type, salinity, currents, cover, and cultch. Included are those shellfish producing areas closed to shellfish harvest due to pollution.
- (h) ~~Strategic Habitat Areas. Locations~~ "Strategic Habitat Areas", which means locations of individual fish habitats or systems of habitats that provide exceptional habitat functions or that are particularly at risk due to imminent threats, vulnerability, or rarity.
- (i) ~~Submerged aquatic vegetation (SAV) habitat. Submerged~~ "Submerged aquatic vegetation (SAV) habitat", which means submerged lands that:
- (i) are vegetated with one or more species of submerged aquatic vegetation including bushy pondweed or southern naiad (*Najas guadalupensis*), coontail (*Ceratophyllum demersum*), eelgrass (*Zostera marina*), horned pondweed (*Zannichellia palustris*), naiads (*Najas* spp.), redhead grass (*Potamogeton perfoliatus*), sago pondweed (*Stuckenia pectinata*, formerly *Potamogeton pectinatus*), shoalgrass (*Halodule wrightii*), slender pondweed (*Potamogeton pusillus*), water stargrass (*Heteranthera dubia*), water starwort (*Callitriche heterophylla*), waterweeds (*Elodea* spp.), widgeongrass (*Ruppia maritima*), and wild celery (*Vallisneria americana*). These areas may be identified by the presence of above-ground leaves, below-ground rhizomes, or reproductive structures associated with one or more SAV species and include the sediment within these areas; or
 - (ii) have been vegetated by one or more of the species identified in Sub-item (4)(i)(i) of this Rule within the past 10 annual growing seasons and that meet the average physical requirements of water depth (six feet or less), average light availability (secchi depth of one foot or more), and limited wave exposure that characterize the environment suitable for growth of SAV. The past presence of SAV may be demonstrated by aerial photography, SAV survey, map, or other documentation.

An extension of the past 10 annual growing seasons criteria may be considered when average environmental conditions are altered by drought, rainfall, or storm force winds.

This habitat occurs in both subtidal and intertidal zones and may occur in isolated patches or cover extensive areas. In defining SAV habitat, the Marine Fisheries Commission recognizes the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et. seq.) and does not intend the submerged aquatic vegetation definition, or this Rule or ~~Rules 03K-0304-15A NCAC 03K .0304~~ and .0404, to apply to or conflict with the non-development control activities authorized by that Act.

- (5) Licenses, permits, leases and franchises, and record keeping:
- (a) ~~Assignment. Temporary~~ "Assignment" means temporary transferal to another person of privileges under a license for which assignment is permitted. The person assigning the license delegates the privileges permitted under the license to be exercised by the assignee, but retains the power to revoke the assignment at any time, and is still the responsible party for the license.
 - (b) ~~Designee. Any~~ "Designee" means any person who is under the direct control of the permittee or who is employed by or under contract to the permittee for the purposes authorized by the permit.
 - (c) ~~For Hire Vessel. As~~ "For hire vessel", as defined by G.S. 113-174, means when the vessel is fishing in ~~state~~ State waters or when the vessel originates from or returns to a North Carolina port.
 - (d) "Franchise" means a franchise recognized pursuant to G.S. 113-206.
 - ~~(d)~~(e) ~~Holder. A~~ "Holder" means a person who has been lawfully issued in his or her name a license, permit, franchise, lease, or assignment.
 - ~~(e)~~(f) ~~Land.~~ "Land" means:
 - (i) ~~For for~~ commercial fishing operations, when fish reach the shore or a structure connected to the shore.
 - (ii) ~~For for~~ purposes of trip tickets, when fish reach a licensed seafood dealer, or where the fisherman is the dealer, when fish reach the shore or a structure connected to the shore.
 - (iii) ~~For for~~ recreational fishing operations, when fish are retained in possession by the fisherman.
 - ~~(f)~~(g) ~~Licensee. Any~~ "Licensee" means any person holding a valid license from the Department to take or deal in marine fisheries resources.
 - ~~(g)~~(h) ~~Logbook. Paper~~ "Logbook" means paper forms provided by the Division and electronic data files generated from software provided by the Division for the reporting of fisheries statistics by persons engaged in commercial or recreational fishing or for-hire operators.

- ~~(h)(i)~~ ~~Master-Captain~~ "Master" means captain or operator of a vessel or one who commands and has control, authority, or power over a vessel.
- ~~(i)(j)~~ ~~New fish dealer~~ "New fish dealer" means any fish dealer making application for a fish dealer license who did not possess a valid dealer license for the previous license year in that name. For purposes of license issuance, adding new categories to an existing fish dealers license does not constitute a new dealer.
- ~~(j)(k)~~ ~~Office of the Division~~ "Office of the Division" means physical locations of the Division conducting license and permit transactions in Wilmington, Washington, Morehead City, Roanoke Island, and Elizabeth City, North Carolina. Other businesses or entities designated by the Secretary to issue Recreational Commercial Gear Licenses or Coastal Recreational Fishing Licenses are not considered Offices of the Division.
- ~~(k)(l)~~ ~~Responsible party~~ "Responsible party" means the person who coordinates, supervises, or otherwise directs operations of a business entity, such as a corporate officer or executive level supervisor of business operations, and the person responsible for use of the issued license in compliance with applicable statutes and rules.
- ~~(l)(m)~~ ~~Tournament Organizer~~ "Tournament organizer" means the person who coordinates, supervises, or otherwise directs a recreational fishing tournament and is the holder of the Recreational Fishing Tournament License.
- ~~(m)(n)~~ ~~Transaction~~ "Transaction" means an act of doing business such that fish are sold, offered for sale, exchanged, bartered, distributed, or landed.
- ~~(n)(o)~~ ~~Transfer~~ "Transfer" means permanent transferal to another person of privileges under a license for which transfer is permitted. The person transferring the license retains no rights or interest under the license transferred.
- ~~(o)(p)~~ ~~Trip Ticket~~ "Trip ticket" means paper forms provided by the Division and electronic data files generated from software provided by the Division for the reporting of fisheries statistics by licensed fish dealers.

*History Note: Authority G.S. 113-134; 113-174; 113-182; 143B-289.52;
 Eff. January 1, 1991;
 Amended Eff. March 1, 1995; March 1, 1994; October 1, 1993; July 1, 1993;
 Recodified from 15A NCAC 03I .0001 Eff. December 17, 1996;
 Amended Eff. April 1, 1999; August 1, 1998; April 1, 1997;
 Temporary Amendment Eff. May 1, 2000; August 1, 1999; July 1, 1999;
 Amended Eff. August 1, 2000;
 Temporary Amendment Eff. August 1, 2000;
 Amended Eff. May 1, 2015; April 1, 2014; April 1, 2011; April 1, 2009; October 1, 2008; December 1, 2007; December 1, 2006; September 1, 2005; April 1, 2003; April 1, 2001;*

Readopted Eff. May 1, 2022.

15A NCAC 03I .0104 is proposed for reoption with substantive changes as follows:

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

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

- (1) ~~To~~place into the coastal fishing waters of the stateState live marine ~~and~~or estuarine organisms ~~not native~~non-native to the ~~state~~State. For the purpose of this Rule, this action is an introduction.
- (2) ~~To~~place into the coastal fishing waters of the stateState live marine ~~and~~or estuarine organisms ~~which~~that are native but ~~which~~that originated outside the State's boundaries. For the purpose of this Rule, this action is a transfer.
- (3) ~~To~~hold or maintain any live marine or estuarine organismorganisms, including non-native species that may thrive if introduced into Coastal Fishing Waters, imported into the ~~state~~State in a quarantine or isolation system for live bait or use in an aquaculture operation as defined in ~~15A NCAC 03I .0101~~Rule .0101 of this Section.
- (4) ~~To~~sell for bait any live marine or estuarine organismorganisms, including non-native species that may thrive if introduced into Coastal Fishing Waters, imported into the ~~state~~State.

(b) Any person desiring to obtain a Permit to Introduce, ~~Transfer~~Transfer, or Hold Imported Marine and Estuarine Organisms ~~must make written~~shall submit a complete application to the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557-0769, 28557. The procedures and requirements for obtaining permits are found in 15A NCAC 03O .0500. In order forFor the Fisheries Director to determine the level of risk to any native marine or estuarine resource or the environment, the applicant shall ~~provide~~also provide a certification from a:

- (1) ~~A certification from a~~ pathologist that a sample of 60 organisms from proposed shipments are disease free or a certification from a governmental veterinary service that the organisms to be shipped were produced in an area or facility free of diseases posing a risk to North Carolina's marine or estuarine resources, or their environment, as determined by the Fisheries Director; and
- (2) ~~A certification from a~~ biologist or veterinarian that macroscopic and microscopic examination indicates the shipment contains only those ~~species~~species, sizes, and quantities identified on the permit application.

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

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

History Note: Authority G.S. 113-134; 113-170; 113-182; 143B-289.52; S.L. 2017-190; S.L. 2018-114;
Eff. January 1, 1991;
Amended Eff. November 1, 1991;
Recodified from 15A NCAC 31 .0004 Eff. December 17, 1996;
Amended Eff. April 1, 2009;
Amended Eff. (Pending legislative review pursuant to S.L. 2017-190 and S.L. 2019-198).

15A NCAC 03I .0114 is proposed for readoption with substantive changes as follows:

15A NCAC 03I .0114 RECORDKEEPING REQUIREMENTS

(a) It ~~is shall be~~ unlawful for a licensed fish dealer:

- (1) ~~To to~~ fail to complete accurately and legibly all mandatory items on the North Carolina trip ticket for each transaction and submit the trip ticket in accordance with G.S. 113-168.2;
- (2) ~~To to~~ fail to provide to the Division of Marine Fisheries a Trip Ticket Submittal/Transaction form indicating the number of transactions that occurred during the previous month;
- (3) ~~To to~~ fail to make paper copies or electronic copies of trip tickets available at the dealer location for inspection by Marine ~~Patrol~~ Fisheries inspectors;
- (4) ~~To to~~ fail to submit trip tickets to the Division via electronic file transfer if that dealer reported an annual average of greater than 50,000 pounds of finfish for the previous three calendar years. Dealers subject to the electronic reporting requirement shall be notified by the Division via certified mail and within 120 days of receipt shall:
 - (A) ~~Initiate~~ initiate electronic file transfer of trip tickets; and
 - (B) ~~Continue~~ continue to report by electronic file transfer until the dealer no longer holds a fish dealer license with finfish or consolidated categories;
- (5) ~~To to~~ fail to use software or web-based utilities authorized by the Division when reporting electronically. Electronic submittals shall meet all other recordkeeping requirements in accordance with G.S. 113-168.2; and
- (6) ~~To to~~ fail to keep all trip tickets and all supporting documentation for each transaction including receipts, checks, bills of lading, records, electronic ~~files~~ files, and accounts for a period of not less than three years.

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

- (1) ~~A a~~ current and valid license or permit to sell the type of fish being offered and if a vessel is used, the ~~commercial fishing vessel registration~~; Commercial Fishing Vessel Registration; and
- (2) ~~Complete~~ complete and accurate information on harvest method and area of catch and other information required by the Division, in accordance with G.S. 113-168.2 and G.S. 113-169.3.

(c) It ~~is shall be~~ unlawful to transport fish without having ready at hand for inspection a bill of consignment, bill of lading, or other shipping documentation provided by the shipping dealer showing ~~thereon the name of the consignee, name of the shipper, the date of the shipment, and the quantity of each species of fish shipped.~~ the following items:

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

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

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

(e) It ~~is~~ shall be unlawful to offer for sale fish purchased from a licensed fish dealer without having ready at hand for inspection by Marine ~~Patrol~~ Fisheries inspectors or other ~~agent~~ agents of the Fisheries Director written documentation of purchase showing ~~thereon the name of the licensed dealer, name of the purchaser, date of the purchase, and the quantity of each species purchased.~~ the following items:

(1) name of the licensed fish dealer;

(2) name of the purchaser;

(3) date of the purchase;

(4) name of fish purchased; and

(5) quantity of each fish purchased.

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

*History Note: Authority G.S. 113-134; 113-168.2; 113-168.3; 113-169.3; 113-170; 113-170.3; 113-170.4; ~~113-182; 143B-289.52;~~
Eff. March 1, 1994;
Recodified from 15A NCAC 3I .0014 Eff. December 17, 1996;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. June 1, 2013; August 1, 2000;
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

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

15A NCAC 03J .0105 PURSE SEINES

(a) It ~~is~~ shall be unlawful to use purse seines except for the taking of menhaden, Atlantic thread herring, gizzard ~~shad~~ shad, or ~~pinfish~~, as further restricted by Paragraphs (b) and (c) of this Rule. pinfish.

(b) It ~~is~~ shall be unlawful to ~~take menhaden, Atlantic thread herring, gizzard shad or pinfish with~~ use a purse seine in violation of any of the following ~~limitations:~~ accordance with the following:

- (1) ~~In in~~ the Atlantic Ocean ~~during the periods and within an area as~~ described:
 - (A) ~~by~~ by Session Law 2012-190; and
 - ~~(A)(B) In in~~ 15A NCAC 03R 0444, .0111.
 - ~~(B) By~~ Session Law 2007-320.
- (2) ~~Except except~~ as provided in ~~Subparagraph (5) of this Paragraph,~~ Paragraph (c) of this Rule, between January 16 and May 14 in:
 - (A) ~~Internal waters,~~ internal waters; and
 - (B) the Atlantic Ocean within one mile of shore.
- (3) ~~Between between~~ January 16 and March 31 in Core Sound.
- (4) ~~In internal waters except in:~~
 - (A) ~~— Pamlico Sound,~~
 - (B) ~~— Pamlico River east of a line from Wades Point to Intraoastal Waterway Marker No. 1 at the mouth of Goose Creek,~~
 - (C) ~~— Neuse River east of a line from Wilkinson Point to Cherry Point,~~
 - (D) ~~— Adams Creek,~~
 - (E) ~~— Core Sound and its tributaries,~~
 - (F) ~~— Back Sound, the Straits, and North river,~~
 - (G) ~~— Newport River,~~
 - (H) ~~— North River, and~~
 - (I) ~~— Bogue Sound.~~
- (5) from beyond one mile of shore in the Atlantic Ocean and transported to port between sunset on any Friday and sunrise of the following Monday from the Friday of the Memorial Day weekend through sunset on Labor Day.
- (6) from beyond one mile of shore in the Atlantic Ocean and transported to port between the hours of sunrise and sunset on the following holidays:
 - (A) Memorial Day;
 - (B) Fourth of July, when the Fourth of July falls on any calendar day Friday through Monday;
and
 - (C) Labor Day.

~~(5)(c)~~ The Fisheries Director may, by proclamation, open the Atlantic Ocean within one mile of shore and the internal waters specified in ~~Subparagraph (4) of this Paragraph~~ (d) of this Rule between April 1 and May 14, and may impose any ~~or all~~ of the following restrictions:

- ~~(1)~~ specify time;
- ~~(2)~~ specify area;
- ~~(A)(3)~~ Specify ~~specify~~ means and ~~methods by area which may be employed in the taking;~~ methods;
- ~~(4)~~ specify record keeping requirements;
- ~~(5)~~ specify season; and
- ~~(B)(6)~~ Limit the quantity; and specify quantity.
- ~~(C)~~ Require submission of statistical and biological data.

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

- (1) Pamlico Sound;
- (2) Pamlico River east of a line from Wades Point to Intracoastal Waterway Marker No. 1 at the mouth of Goose Creek;
- (3) Neuse River east of a line from Wilkinson Point to Cherry Point;
- (4) Adams Creek;
- (5) Core Sound and its tributaries;
- (6) Back Sound, the Straits, and North River;
- (7) Newport River;
- (8) North River; and
- (9) Bogue Sound.

~~(e)(e)~~ Menhaden, Atlantic thread herring, gizzard ~~shad~~ shad, or pinfish may be taken at any time with a purse seine from beyond one mile of shore in the Atlantic Ocean and transported to port except as specified by Session Law ~~2007-320~~ 2012-190 and Subparagraphs (b)(5) and (b)(6) of this Rule, ~~and except as prohibited below:~~

- ~~(1)~~ It is unlawful to take menhaden, Atlantic thread herring, gizzard shad shad, or pinfish by use of a purse seine between sunset on any Friday and sunrise of the following Monday from the Friday of the Memorial Day weekend through sunset on Labor Day each year.
- ~~(2)~~ It is unlawful to take menhaden, Atlantic thread herring, gizzard shad shad, or pinfish by use of a purse seine between the hours of sunrise and sunset on the following holidays:
 - ~~(A)~~ Memorial Day;
 - ~~(B)~~ Fourth of July, when the Fourth of July falls on any calendar day Friday through Monday;
and
 - ~~(C)~~ Labor Day.

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

- (1) ~~Immediately within two hours of the spill, notify the office of the Fisheries Director of the North Carolina~~ Division of Marine Fisheries Communications Center of such spill; the spill by phone at 800-682-2632 or 252-726-7021; and
- (2) ~~Report~~ report to the Fisheries Director of the North Carolina Division of Marine Fisheries in writing within 30 days of the completion of spill clean-up on the circumstances associated with each spill and costs of its clean-up.

*History Note: Authority G.S. 113-134; 113-182; 113-187; 113-221.1; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. October 1, 2008;
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03J .0109 is proposed for readoption with substantive changes as follows:

15A NCAC 03J .0109 ~~LONG HAUL FISHING OPERATIONS, IDENTIFICATION~~ LONG HAUL AND SWIPE NET REQUIREMENTS

It ~~is shall be~~ unlawful to ~~tow or pull~~ use a net in a ~~long haul~~ long haul or swipe net fishing ~~excluding operations with nets made entirely of monofilament and having a mesh length of three inches or greater~~ operation:

- (1) ~~Without~~ without a floating buoy that shall be international orange, no less than five inches in diameter, and no less than 11 inches in length attached a minimum of every 100 yards along the cork line. ~~The buoy shall be international orange and shall be no less than five inches in diameter and no less than 11 inches in length; and~~ line;
- (2) ~~Without~~ without a flag, flag that shall be square in shape, international orange in color, and at least 24 inches by 24 inches in size, size flying in the rigging so as to be visible when approaching the vessel from any ~~direction~~ direction; and
- (3) ~~In~~ in the ~~internal coastal waters~~ Internal Coastal Waters south and west of a line beginning on the west shore of Pamlico Sound at Bluff Point at a point 35° 19.5333' N – 76° 09.3333' W; running southeasterly to Ocracoke Island to a point 35° 08.0000' N – 75° 55.0000' ~~W, W~~ W, W; without escape panels as follows:
 - (a) ~~For~~ for long haul operations, two panels four feet deep and six feet long ~~shall be~~ installed with the entire panel within 10 feet of the staff on the end of the bunt net from which the fish are being ~~bailed~~. ~~The~~ bailed, with panels shall be in the water while fish are ~~harvested~~ harvested;
 - (b) ~~For~~ for swipe net operations, two panels three feet deep and five feet long ~~shall be~~ installed with the entire panel within 10 feet of the staff on the end of the bunt net from which the fish are being ~~bailed~~. ~~The~~ bailed, with panels shall be in the water while fish are ~~harvested~~ harvested;
 - (c) ~~The~~ the upper edge of one panel ~~shall be~~ installed within 12 to 24 inches of the float line and the lower edge of the other panel ~~shall be~~ installed within 12 to 24 inches of the lead ~~line~~ line; and
 - (d) ~~The~~ panels shall be constructed of unobstructed trawl rings with ~~an~~ a minimum inside diameter ~~no less than~~ of one and nine-sixteenth inches (1 9/16"). ~~The~~ inches, with the rings shall be fastened together at a maximum of four points per ring.

*History Note: Authority G.S. 113-134; 113-182; ~~143B-289.4~~; 143B-289.52;
Eff. January 1991;
Amended Eff. August 1, 2004; April 1, 1999;
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03J .0305 is proposed for readoption with substantive changes as follows:

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

(a) It shall be unlawful to use multiple hook or multiple bait trotlines for recreational purposes unless such trotlines are each multiple hook or multiple bait trotline is marked by attaching to them at each end 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 gear owner's last name and initials shall always be identified on the attached buoy by using an engraved 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 owner's current motor boat registration number, number; or
- (2) Owner's gear owner's U.S. vessel documentation name.

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

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

*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 03K .0205 is proposed for readoption with substantive changes as follows:

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

(a) ~~It is shall be~~ unlawful to take, possess, buy, or sell oysters from a shellfish leases-lease or franchises-franchise during the open season unless such oysters have been culled in accordance with Rule ~~15A NCAC 03K .0202.~~0202 of this Section.

~~(b) It is unlawful to sell, purchase or possess oysters during the regular closed season without the lease or franchise holder delivering to the purchaser or other recipient a certification, on a form provided by the Division, that the oysters were taken from a valid shellfish lease or franchise. Certification forms shall be furnished by the Division to lease and franchise holders upon request.~~

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

(c) ~~It is shall be~~ unlawful for a shellfish lease or franchise holders-holder or their designees to take or possess oysters from public bottom while possessing aboard a vessel oysters taken from a shellfish leases-lease or franchises-franchise.

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

*History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. September 1, 1991;
Temporary Amendment Eff October 1, 2001;
Amended Eff. April 1, 2003;
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03K .0507 is proposed for reoption with substantive changes as follows:

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

~~(a) It shall be unlawful to sell, purchase, or possess scallops during the closed season without the lease or franchise holder delivering to the purchaser or other recipient a certification, on a form provided by the Division of Marine Fisheries, that the scallops were taken from a valid shellfish lease or franchise. Certification forms shall be furnished by the Division to lease and franchise holders upon request.~~

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

(b) It shall be unlawful for a shellfish lease or franchise holders-holder or their designees to take or possess scallops from public bottom while possessing aboard a vessel scallops taken from a shellfish leases-lease or franchises-franchise.

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

History Note: Authority G.S. 113-134; 113-182; 113-201; 143B-289.52;

Eff. May 1, 2015;

Readopted Eff. April 1, 2019;

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

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

SUBCHAPTER 03O - LICENSES, LEASES, ~~FRANCHISES~~ FRANCHISES, AND PERMITS

SECTION .0100 - LICENSES

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

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

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

~~(a)~~(c) To obtain any Division of Marine Fisheries licenses, endorsements, ~~commercial fishing vessel registrations,~~ and Commercial Fishing Vessel Registrations, a licensee shall provide a completed application to an office of the Division by mail or in person. Applications submitted without complete and required information shall not be processed until all required information has been submitted. Incomplete applications shall be returned to the applicant with deficiency in the application so noted. The following shall be required for the application: ~~except Recreational Fishing Tournament Licenses to Sell Fish and Land or Sell Licenses, the following information is required for the application by the licensee, a responsible party, or person holding a power of attorney:~~

- (1) Full ~~full~~ name, physical address, mailing address, date of birth, and signature of the licensee ~~on the application~~ licensee. If the licensee is not appearing before a license agent or a representative of the Division, the licensee's signature ~~on the application~~ shall be ~~notarized~~ notarized.
- (2) a statement from the licensee that the information and supporting documentation submitted with the application is true and correct.
- ~~(2)~~(3) Current ~~current and valid~~ picture identification of licensee ~~or responsible party~~ the licensee. Acceptable forms of picture identification are state driver's license, state identification ~~card~~, card issued by the Division of Motor Vehicles, military identification card, resident alien card (green card), or passport; or if purchased by mail, a copy ~~thereof~~ thereof.
- ~~(3)~~(4) Certification ~~certification~~ that the applicant does not have four or more marine or estuarine resource ~~violations~~ convictions during the previous three ~~years~~ years.
- (4) Valid ~~documentation papers or current motor boat registration, or copy thereof when purchasing a commercial fishing vessel registration. If an application for transfer of documentation is pending, a copy of the pending application and a notarized bill of sale may be submitted;~~
- (5) Current ~~current~~ articles of incorporation and a current list of corporate officers when purchasing a license or ~~commercial fishing vessel registration~~ Commercial Fishing Vessel Registration in a

corporate name. In the case of incorporation of an individual fishing vessel, the name of the vessel master of that vessel shall also be specified. The responsible party licensee shall notify the Morehead City Office of the Division of Marine Fisheries within five days of change of the master specified for that vessel; changing the vessel master.

- (6) a current copy of a written partnership agreement shall be provided when purchasing a license, endorsement, or Commercial Fishing Vessel Registration in a partnership name, if a partnership is established.
- (7) valid documentation papers or current motor boat registration, or copy thereof when purchasing a Commercial Fishing Vessel Registration. If an application for transfer of documentation is pending, a copy of the pending application and a notarized bill of sale may be submitted.
- ~~(6)~~(8) An affirmation of liability insurance and that the operator is knowledgeable of United States Coast Guard (USCG) safety requirements for the vessel(s)-vessels used in the operation in accordance with G.S. 113-168.6 when purchasing a commercial fishing vessel registration-Commercial Fishing Vessel Registration with a for-hire endorsement.
- (7) If a partnership is established by a written partnership agreement, a current copy of such agreement shall be provided when purchasing a license, endorsement, or commercial fishing vessel registration in a partnership name;
- (8) For nonresidents, certification of the state of residency;
- (9) In addition to the information required in G.S. 113-169.4, linear length of pier when purchasing an Ocean Fishing Pier License;
- (10) In addition to the information required in G.S. 113-171.1, current aircraft registration and list of operator(s) when purchasing a Spotter Plane License;
- (11) In addition, for fish dealers licenses, the physical address of the established location where business is conducted and, if different, the address where records are kept;
- (12) When purchasing a Fish Dealer License with clam or oyster categories or a consolidated license, the applicant shall provide valid certification as a North Carolina certified shellfish dealer;
- (13) In addition, for the Blanket For Hire Captain's Coastal Recreational Fishing License (CRFL), the applicant shall provide a valid certification from the USCG that allows carrying six or fewer passengers or a certification from the USCG that allows carrying more than six passengers; and
- (14) In addition, for the Blanket For Hire Vessel CRFL or the Non Blanket For Hire Vessel License, valid documentation papers or current motor boat registration or copies thereof for the vessel engaged as for hire. If an application for transfer of documentation is pending, a copy of the pending application and a notarized bill of sale may be submitted.

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

- (1) Standard or Retired Standard Commercial Fishing Licenses: A notarized certification from the applicant that the applicant is a resident of the State of North Carolina as defined by G.S. 113-130(4) and:
 - (A) a notarized certification from the applicant that a North Carolina State Income Tax Return was filed for the previous calendar or tax year as a North Carolina resident;
 - (B) a notarized certification that the applicant was not required to file a North Carolina State Income Tax Return for the previous calendar or tax year; or
 - (C) military identification or military dependent identification, and permanent change of station orders or assignment orders substantiating the military individual's active duty assignment at a military facility in North Carolina.
 - (2) All other types of licenses:
 - (A) North Carolina voter registration card;
 - (B) current North Carolina Driver's License;
 - (C) current North Carolina Certificate of Domicile;
 - (D) current North Carolina Identification Card issued by the North Carolina Division of Motor Vehicles; or
 - (E) military identification or military dependent identification, and permanent change of station orders or assignment orders substantiating the military individual's active duty assignment at a military facility in North Carolina.
- (e) In addition to the requirements in Paragraphs (c) and (d) of this Rule, the following shall be required:
- (1) Blanket For-Hire Captain's CRFL: a valid certification from the USCG that allows carrying six or fewer passengers or a certification from the USCG that allows carrying more than six passengers.
 - (2) Blanket For-Hire Vessel CRFL or Non-Blanket For-Hire Vessel License:
 - (A) valid documentation papers or current motor boat registration, or copies thereof for the vessel engaged as for-hire; or
 - (B) a copy of the pending application and a notarized bill of sale if an application for transfer of documentation is pending.
 - (3) Fish Dealer License:
 - (A) the physical address of the established location where business is conducted and, if different, the address where records are kept; and
 - (B) a valid Permit and Certificate of Compliance from the Division of Marine Fisheries Shellfish Sanitation and Recreational Water Quality Section, if purchasing a Fish Dealer License with clam or oyster categories or a consolidated license.
 - (4) Land or Sell License:
 - (A) valid documentation papers or current motor boat registration, or copy thereof; or
 - (B) a copy of the pending application and a notarized bill of sale if an application for transfer of documentation is pending.

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

(5) Ocean Fishing Pier License:

(A) the information required in G.S. 113-169.4; and

(B) linear length of the pier. A Marine Fisheries inspector's signature is required to verify the linear length of the pier before the license can be issued.

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

(7) Spotter Plane License:

(A) the information required in G.S. 113-171.1;

(B) the current aircraft registration; and

(C) a list of operators.

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

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

~~(1)(2)~~ To to qualify for a License to Land Flounder from the Atlantic Ocean, the applicant shall:

(A) have landed in North Carolina at least 1,000 pounds of flounder from a single vessel each year from the Atlantic Ocean during any two of the 1992-93, 1993-94, 1994-95 license years for which the person had a vessel that was licensed to land in North Carolina; and

(B) have been licensed under G.S. 113-152 or 113-153 during any two of the 1992-93, 1993-94, or 1994-95 license years; and

(C) hold a valid Standard or Retired Standard Commercial Fishing License or valid Land or Sell License.

~~(2)(3)~~ It is lawful it shall be unlawful for a person to hold more Licenses to Land Flounder from the Atlantic Ocean equal to than the number of vessels that he owns they own that individually met the eligibility requirements of Parts ~~(b)(1)(A)-(f)(2)(A)~~ and ~~(b)(1)(B)-(f)(2)(B)~~ of this Rule.

~~(3)(4)~~ The the License to Land Flounder from the Atlantic Ocean is only valid when used on the vessel specified at the time of license issuance.

~~(4)(5)~~ At at the time of issuance, the applicant for the License to Land Flounder from the Atlantic Ocean shall specify the name of the vessel master of the vessel for each License to Land Flounder from the Atlantic Ocean issued.

~~(5)(6)~~ The the holder of the License to Land Flounder from the Atlantic Ocean shall notify the Morehead City Office of the Division of Marine Fisheries within five days of change as to the vessel master identified on the license.

~~(6)(7)~~ Licenses to Land Flounder from the Atlantic Ocean are issued for the current license year and expire on June 30 year.

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

- (1) it shall be unlawful for anyone other than the holder of the Recreational Fishing Tournament License to Sell Fish to sell fish taken during a recreational fishing tournament.
- (2) fish to be sold under the Recreational Fishing Tournament License to Sell Fish shall be sold only to licensed fish dealers and shall comply with all applicable rules of the Marine Fisheries Commission or provisions of proclamations issued by the Fisheries Director as authorized by the Marine Fisheries Commission.
- (3) it shall be unlawful for a licensed recreational fishing tournament organizer to fail to accurately and legibly complete a North Carolina Recreational Fishing Tournament Disposition of Proceeds from the Sale of Fish Form provided by the Division of Marine Fisheries and submit the form to the Division within 30 days after the last day of the tournament.

(h) It shall be unlawful for a license, endorsement, or Commercial Fishing Vessel Registration holder to fail to notify the Division of Marine Fisheries within 30 days of a change of name or address, in accordance with G.S. 113-169.2.

~~(e) To obtain a Recreational Fishing Tournament License to Sell Fish, the tournament organizer shall apply with the Division of Marine Fisheries at least 30 days prior to the starting date of the tournament with the following required information:~~

- ~~(1) Full name, physical address, mailing address, date of birth, signature of the tournament organizer, name of tournament, and dates of tournament on the license application. If the licensee is not appearing before a representative of the Division, the licensee's signature shall be notarized on the application.~~
- ~~(2) Current picture identification of tournament organizer. Acceptable forms of picture identification are driver's license, state identification card, military identification card, resident alien card (green card), or passport; or if purchased by mail, a copy thereof.~~

~~(d) To obtain a Land or Sell License, the following information is required for a proper application:~~

- ~~(1) Full name, physical address, mailing address, date of birth, and signature of the responsible party or master for the vessel on the license application. If the licensee is not appearing before a representative of the Division, the licensee's signature on the application shall be notarized on the application;~~
- ~~(2) Current picture identification of responsible party or master. Acceptable forms of picture identification are driver's license, state identification card, military identification card, resident alien card (green card), or passport; or if applying by mail, a copy thereof;~~
- ~~(3) Valid documentation papers or current motor boat registration or copy thereof when purchasing a commercial fishing vessel registration. If an application for transfer of documentation is pending, a copy of the pending application and a notarized bill of sale may be submitted.~~

~~Fees shall be based on the vessel's homeport as it appears on the U.S. Coast Guard documentation papers or the State in which the vessel is registered, in accordance with G.S. 113-169.5.~~

~~(e) Proof of residency in North Carolina for:~~

- ~~(1) Standard Commercial Fishing License or Retired Standard Commercial Fishing License shall require a notarized certification from the applicant that the applicant is a resident of the State of North Carolina as defined by G.S. 113-130(4); and~~
 - ~~(A) a notarized certification from the applicant that a North Carolina State Income Tax Return was filed for the previous calendar or tax year as a North Carolina resident;~~
 - ~~(B) a notarized certification that the applicant was not required to file a North Carolina State Income Tax Return for the previous calendar or tax year; or~~
 - ~~(C) military identification, military dependent identification and permanent change of station orders or assignment orders substantiating individual's active duty assignment at a military facility in North Carolina.~~
- ~~(2) All other types of licenses:~~
 - ~~(A) North Carolina voter registration card; or~~
 - ~~(B) Current North Carolina Driver's License; or~~
 - ~~(C) Current North Carolina Certificate of Domicile; or~~
 - ~~(D) Current North Carolina Identification Card issued by the North Carolina Division of Motor Vehicles; or~~
 - ~~(E) Military identification, military dependent identification and permanent change of station orders or assignment orders substantiating individual's active duty assignment at a military facility in North Carolina.~~

~~(f) Applications submitted without complete and required information shall not be processed until all required information has been submitted. Incomplete applications shall be returned to the applicant with deficiency in the application so noted.~~

~~(g) It is unlawful for a license or registration holder to fail to notify the Division of Marine Fisheries within 30 days of a change of name or address, in accordance with G.S. 113-169.2.~~

~~(h) Licenses are available at Offices of the Division or by mail from the Morehead City Office, unless otherwise specified. In addition, Recreational Commercial Gear Licenses are available at Wildlife Service Agents who have been designated as agents of the Department.~~

~~(i) To renew any Marine Fisheries licenses, endorsements, and commercial fishing vessel registration, except Recreational Commercial Gear Licenses, the following is required for the renewal application by the licensee, a responsible party, or person holding a power of attorney;~~

- ~~(1) The information required in Subparagraphs (a)(4), (a)(5), and (a)(6) of this Rule are only required if a change has occurred since the last issuance of license, endorsement, or commercial fishing vessel registration.~~
- ~~(2) Certification that articles of incorporation and list of corporate officers, if incorporated, written partnership agreement, if written partnership, or documentation papers or motor boat registration previously provided for initial license purchase are still valid and current for renewal.~~

- (3) ~~Current and valid state driver's license or state identification picture identification numbers and expiration dates shall be verified on mail license renewal applications or any other electronic license renewal process, otherwise the licensee shall provide a photocopy for renewal by mail or visit a Division License Office and present a current and valid picture identification pursuant to Subparagraph (a)(2) of this Rule.~~
- (4) ~~The licensee's or responsible party's signature on the application shall certify all information as true and accurate. Notarization of signature on renewal applications shall not be required.~~
- (5) ~~The Division of Marine Fisheries may require current copies of documentation for licenses, endorsements, or commercial fishing vessel registration on renewal when necessary to verify inconsistent information or the information cannot be verified by independent sources.~~
- (6) ~~If the linear length of the pier has not changed for the Ocean Fishing Pier License renewal, the responsible party shall certify that the length is accurate; otherwise, a Marine Patrol Officer's signature is required to certify the linear length before the license can be renewed.~~
- (7) ~~Certification that shellfish dealer certification by North Carolina previously provided for issuance of Fish Dealer License with clam or oyster categories or consolidated license is still valid and current for renewal.~~

History Note: Authority *G.S. 113-134; 113-168; 113-168.1-6; ~~113-169~~; 113-169.2-5; 113-171.1; 113-174.3; 113-182; 143B-289.52;*
Eff. January 1, 1991;
Amended Eff. July 1, 1997; March 1, 1994;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. April 1, 2001;
Amended Eff. May 1, 2015; July 1, 2008; December 1, 2006; August 1, 2004; August 1, 2002;
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).

15A NCAC 030 .0102 is proposed for reoption with substantive changes as follows:

15A NCAC 030 .0102 ~~RECREATIONAL FISHING TOURNAMENT LICENSE TO SELL FISH PROCEDURES AND REQUIREMENTS TO RENEW LICENSES, ENDORSEMENTS, AND COMMERCIAL FISHING VESSEL REGISTRATIONS~~

~~(a) It is unlawful for anyone other than the holder of the Recreational Fishing Tournament License to Sell Fish to sell fish taken during a recreational fishing tournament.~~

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

~~(c) It is unlawful for a licensed recreational fishing tournament organizer to fail to accurately and legibly complete and file within 30 days after the last day of the tournament a North Carolina Recreational Fishing Tournament Disposition of Proceeds from the Sale of Fish Form provided by the Division.~~

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

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

- (1) full name, physical address, mailing address, date of birth, and signature of the licensee.
- (2) a statement from the licensee that the information and supporting documentation submitted with the application is true and correct.
- (3) current and valid picture identification of the licensee. Acceptable forms of picture identification are state driver's license, state identification card issued by the Division of Motor Vehicles, military identification card, resident alien card (green card), or passport; or if purchased by mail, a copy thereof.
- (4) the information required in Rule .0101(c)(4) through (c)(8) of this Section, if changed since last issuance of the license, endorsement, or Commercial Fishing Vessel Registration.
- (5) the information required in Rule .0101(e)(1) of this Section, if the linear length of the Ocean Fishing Pier has changed.
- (6) a valid Permit and Certificate of Compliance from the Division's Shellfish Sanitation and Recreational Water Quality Section, if renewing a Fish Dealer License with clam or oyster categories or a consolidated license.
- (7) certification that all information on the application is true and accurate. Notarization of the signature on renewal applications shall not be required.

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

*History Note: Authority G.S. 113-134; 113-168; ~~113-168.4~~; 113-168.1-6; 113-169.2-5; 113-171.1; 113-174.3; 113-182; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. March 1, 1994;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. April 1, 2020; December 1, 2006; August 1, 2000;
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

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

15A NCAC 03O .0103 AUXILIARY VESSELS

(a) ~~Buy boats, run boats, purse boats or any other vessels used in conjunction with commercial fishing operations, except vessels without motors used in connection with other vessels with commercial fishing vessel registrations, shall have a commercial fishing vessel registration.~~ It shall be unlawful to fail to comply with Commercial Fishing Vessel Registration requirements set forth in G.S. 113-168.6 to operate a buy vessel, run vessel, purse vessel, or any other vessel used in conjunction with a commercial fishing operation, except as specified.

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

History Note: Authority G.S. 113-134; 113-168.1; 113-168.2; 113-168.5; 113-168.6; ~~113-169; 113-182; 143B-~~
289.52;
Eff. January 1, 1991;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. April 1, 2020; August 1, 2000;
Readopted Eff. May 1, 2021.

15A NCAC 03O .0104 is proposed for reoption with substantive changes as follows:

15A NCAC 03O .0104 COMMERCIAL UNLOADING OF FISH

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

- (1) Standard or Retired Standard Commercial Fishing ~~Licenses;~~ or License with applicable endorsement;
- ~~(2) Menhaden License for Nonresidents Without a Standard Commercial Fishing License; or~~
- ~~(3)~~ (2) Shellfish License for North Carolina Residents without a Standard Commercial Fishing ~~Licenses;~~ License; or
- ~~(4)~~ (3) Land or Sell License.

*History Note: Authority G.S. 113-134; 113-168.1; 113-168.2; 113-168.4; ~~113-169; 113-169.5; 113-182; 143B-289.52;~~
Eff. January 1, 1991;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. August 1, 2000;
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

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

15A NCAC 03O .0105 ~~BAIT AND MUSSEL DEALERS~~

~~(a) Persons dealing in minnows, live shrimp, or both minnows and live shrimp for bait purposes, who are subject to licensing requirements under G.S. 113-169.3 are required to purchase only the license applicable to finfish dealers. A bona fide dealer in shrimp, licensed under the provisions of G.S. 113-169.3, may, however, deal in minnows as well as live shrimp for bait purposes, as an incident of his operations under his shrimp dealer's license.~~

~~(b) Persons dealing in mussels who are subject to licensing requirements under the provisions of G.S. 113-169.3 are shall be required to purchase only the license applicable to clam dealers and ~~meet the shellfish dealer certification requirements in 15A NCAC 03O .0101(a)(11)~~, shall be required to hold a valid Permit and Certificate of Compliance from the Division of Marine Fisheries Shellfish Sanitation and Recreational Water Quality Section, as described in Rule .0101 of this Section.~~

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

15A NCAC 03O .0107 is proposed for reoption with substantive changes as follows:

15A NCAC 03O .0107 ~~LOST-LICENSE REPLACEMENT~~ AND FEES

~~(a) Lost licenses except Blanket Coastal Recreational Fishing Licenses, endorsements, and commercial fishing vessel registration decals may be replaced upon payment of a fee of ten dollars (\$10.00) or a fee equal to the initial cost of the license, endorsement, or commercial fishing vessel registration, whichever is less.~~ A licensee shall receive a replacement for a commercial license, endorsement, Commercial Fishing Vessel Registration decal, or Recreational Commercial Gear License upon payment to the Division of Marine Fisheries a fee of ten dollars (\$10.00) or a fee equal to the initial cost of the license, endorsement, or Commercial Fishing Vessel Registration, whichever is less.

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

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

15A NCAC 030 .0109 is proposed for readoption with substantive changes as follows:

15A NCAC 030 .0109 ASSIGNMENT OF ~~SCFL~~ STANDARD COMMERCIAL FISHING LICENSE

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

~~(a)~~(b) The Division of Marine Fisheries shall provide assignment forms to the licensee upon issuance of the Standard Commercial Fishing License. request. Assignment must be made on the Only Division assignment forms. forms shall be used to obtain an assignment. On the assignment form, the Standard Commercial Fishing License holder must licensee shall designate what, if any, endorsements are included in the assignment. Endorsements may shall not be assigned independent of the Standard Commercial Fishing License. It is shall be unlawful for the Standard Commercial Fishing License holder licensee or the assignee to fail to submit within five days the completed assignment form to any office of the Division in person or by mail to the Morehead City Division Office. The Morehead City Office is located at 3441 Arendell Street, Morehead City, North Carolina, 28557. If the completed assignment form is not received by the Division within five days from the date it was signed, the assignment shall be null and void. Incomplete forms shall be returned to the licensee with deficiency in the form so noted. An assignment is in effect from the date specified on the assignment form and when:

- (1) the assignment form is properly completed; complete with all required information;
- (2) signatures of the current license holder and the assignee are notarized; and
- (3) the assignee has in their possession the current licensee's original actual Standard Commercial Fishing License with License, including applicable endorsements of the current license holder in accordance with G.S. 113-169.2.

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

~~(b)~~(c) Assignments terminate when; shall terminate:

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

~~If the properly completely assignment form is not received by the Division within five days from the date it was signed, the assignment is null and void. For an extension of time for assignments, a new assignment form must be completed in accordance with Subparagraphs (a)(1) — (3) of this Rule.~~

~~(e)~~(d) It is shall be unlawful for an individual assigned a Standard Commercial Fishing License to fail to have available ready at hand for inspection all required documents as stated under G.S. 113-168.1. The assignee when involved in a commercial fishing operation must to fail to have the original actual Standard Commercial Fishing License and

License, any assigned endorsements~~endorsements~~, and a copy of the assignment form in their possession ready at hand for inspection~~inspection~~ in accordance with G.S. 113-168.1.

~~(d)~~(e) All landings occurring during the time of the assignment shall be credited to the Standard Commercial Fishing License holder, licensee, not the assignee.

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

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

~~(g)~~ Assignments submitted without complete and required information shall be deemed not in effect and shall not be considered further until resubmitted with all required information.

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

*History Note: Authority G.S. 113-134; 113-168.1; 113-168.2; 113-168.5; 113-169.2; 113-182; 143B-289.52;
Eff. January 1, 1991;
Temporary Amendment Eff. October 2, 1999; July 1, 1999;
Amended Eff. August 1, 2000;
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

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

15A NCAC 03O .0110 LICENSE REFUNDS

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

*History Note: Authority G.S. 113-134; ~~113-168.1; 113-173; 113-182;~~ 143B-289.52; 147-84; ~~1993 (Regular Session 1994), c. 576, s. 3;~~
Eff. March 1, 1995;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. August 1, 2000;
Readopted Eff. May 1, 2022.*

15A NCAC 03O .0113 is proposed for readoption with substantive changes as follows:

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

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

*History Note: Authority G.S. 113-134; 113-169.4; 113-174.1; 113-182; 143B-289.52;
Eff. April 1, 2011;
Amended Eff. May 1, 2015;
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03R .0111 is proposed for amendment as follows:

15A NCAC 03R .0111 PURSE SEINES PROHIBITED

The areas referenced in 15A NCAC 03J .0105(b)(1) are delineated in the following coastal fishing waters of the Atlantic Ocean:

~~(a)(1) It is unlawful to take menhaden or Atlantic thread herring by the use of a purse seine from in the Atlantic Ocean within an area bounded by a line extending from a point near the Bald Head Lighthouse (~~33° 52.3500' N – 78° 00.3000' W~~) 33° 52.3500' N - 78° 00.3000' W; running southwesterly to a point near the Cape Fear River ship channel buoy "9" (~~33° 51.5500' N – 78° 01.5500' W~~), then 33° 51.5500' N – 78° 01.5500' W; running northwesterly to a point near the foot of the Yaupon Beach Fishing Pier on Oak Island (~~33° 54.2000' N – 78° 04.9333' W~~), then 33° 54.2000' N – 78° 04.9333' W; following the shoreline easterly to a point near Fort Caswell (~~33° 53.2166' N – 78° 01.1833' W~~), then 33° 53.2166' N – 78° 01.1833' W; running southeasterly ~~back to the point of origin beginning;~~~~

~~(b)(2) It is unlawful to take menhaden or Atlantic thread herring by the use of a purse seine from in the Atlantic Ocean from May 1 through September 30:~~

~~(1)(a) In that in the area bounded by a line beginning at a point onshore at the northern boundary of Dare County 36° 13.8536' N - 75° 46.3914' W; running easterly 1.5 nautical miles to a point offshore 36° 13.8536' N - 75° 44.3814' W; running southerly parallel to and 1.5 nautical miles from the ocean beach to a point 1.5 nautical miles offshore at the northern town limits of Southern Shores 36° 09.0673' N - 75° 44.2225' W; running westerly to a point onshore at the northern town limits of Southern Shores 36° 09.0673' N - 75° 42.2416' W; and~~

~~(2)(b) In that in the area bounded by a line beginning at a point at the southern limits of Kitty Hawk 36° 03.3187' N - 75° 40.9503' W; running easterly 1.5 nautical miles to a point offshore 36° 03.3187' N - 75° 38.8029' W; running southerly parallel to and 1.5 nautical miles from the ocean beach to a point 1.5 nautical miles offshore of the rock jetty south of Oregon Inlet 35° 46.4052' N - 75° 29.2379' W; running westerly to a point onshore at the rock jetty south of Oregon Inlet 35° 46.4052' N - 75° 31.5369' ~~W~~ W; and~~

~~(c)(3) It is unlawful to take menhaden or Atlantic thread herring by the use of a purse seine from the in the Atlantic Ocean from October 1 through December 31:~~

~~(1)(a) In that in the area bounded by a line beginning at a point onshore at the northern boundary of Dare County 36° 13.8536' N - 75° 46.3914' W; running easterly 0.5 nautical miles to a point offshore 36° 13.8536' N - 75° 45.6977' W; running southerly parallel to and 0.5 nautical miles off the ocean beach to a point 0.5 nautical miles offshore at the northern town limits of Southern Shores 36° 09.0673' N - 75° 43.5514' W; running westerly 0.5~~

nautical miles to a point onshore at the northern town limits of Southern Shores 36° 09.0673' N - 75° 44.2416' W; and

(2)(b) ~~In that in~~ the area bounded by a line beginning at a point at the southern limits of Kitty Hawk 36° 03.3187' N - 75° 40.9503' W; running easterly 0.5 nautical miles to a point offshore 36° 03.3187' N - 75° 40.2033' W; running southerly parallel to and 0.5 nautical ~~mile~~ miles off the ocean beach to a point offshore at the rock jetty south of Oregon Inlet 35° 46.4052' N - 75° 30.6134' W; running westerly to a point onshore at the rock jetty south of Oregon Inlet 35° 46.4052' N - 75° 31.5369' W.

History Note: Authority G.S. 113-134; 113-182; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. October 1, 1993;
Recodified from 15A NCAC 03R .0011 Eff. December 17, 1996;
Amended Eff. August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Readopted Eff. (Pending legislative review of 15A NCAC 03J .0105).