

1 15A NCAC 03K .0103 is proposed for readoption with substantive changes as follows:

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3 **15A NCAC 03K .0103 SHELLFISH MANAGEMENT AREAS**

4 ~~(a) The Fisheries Director may, by proclamation, designate Shellfish Management Areas which meet either of the~~
5 ~~following criteria. The area has:~~

- 6 (1) ~~conditions of bottom type, salinity, currents, cover or cultch necessary for shellfish growth;~~
7 (2) ~~shellfish populations or shellfish enhancement projects that may:~~
8 (A) ~~produce commercial quantities of shellfish at 10 bushels or more per acre;~~
9 (B) ~~produce shellfish suitable for transplanting as seed or for relaying from prohibited~~
10 ~~(polluted) areas; or~~
11 (C) ~~serve as sanctuaries to increase spawning and disease resistance or to prevent predation.~~

12 (a) For the purpose of this Rule, "Shellfish Management Area" shall mean an area that has environmental conditions
13 suitable for shellfish growth and survival that is designated to establish a localized regulatory strategy to improve the
14 propagation of shellfish and has at least one of the following:

- 15 (1) planted cultch;
16 (2) existing shell; or
17 (3) existing live shellfish.

18 (b) The Fisheries Director may, by proclamation, designate and modify Shellfish Management Areas based on
19 biological impacts or variable spatial distribution, including shifted material.

20 ~~(b)(c) It is shall be unlawful to use a trawl net, long haul seine, or swipe net in any designated Shellfish or Seed~~
21 ~~Management area. Area. These areas shall be marked with signs or buoys. Unmarked and undesignated tributaries shall~~
22 ~~be the same designation as the designated waters to which they connect or into which they flow. No unauthorized~~
23 ~~removal or relocation of any such marker shall have the effect of changing the designation of any such body of water~~
24 ~~or portion thereof, nor shall any such unauthorized removal or relocation or the absence of any marker affect the~~
25 ~~applicability of any rule pertaining to any such body of water or portion thereof.~~

26 ~~(e)(d) It is shall be unlawful to take shellfish from any Shellfish Management Area which that has been closed and~~
27 ~~posted, in accordance with Paragraph (b) of this Rule, except that the Fisheries Director may, by proclamation, open~~
28 ~~specific areas to allow the taking of shellfish and may designate time, place, character, or dimensions of any method~~
29 ~~or equipment that may be employed. impose any of the following requirements based on biological impacts or user~~
30 conflicts:

- 31 (1) specify time;
32 (2) specify area;
33 (3) specify means and methods except as set forth in Paragraph (c) of this Rule;
34 (4) specify season;
35 (5) specify size;
36 (6) specify quantity; and
37 (7) specify marking requirements.

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*History Note: Authority G.S. 113-134; 113-182; 113-204; ~~113-221~~; 113.221.1; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. March 1, 1994;
Temporary Amendment Eff. October 1, 2001;
Amended Eff. October 1, 2008; February 1, 2008; April 1, 2003;
Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03K .0104 is proposed for readoption with substantive changes as follows:

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3 **15A NCAC 03K .0104 PERMITS FOR PLANTING—RELAYING SHELLFISH FROM**
4 **PROHIBITED/POLLUTED/POLLUTED AREAS**

5 (a) ~~It is shall be~~ unlawful to take ~~oysters or clams shellfish~~ from ~~prohibited (polluted) polluted~~ public waters or
6 franchises for planting on shellfish leases and franchises except as authorized by G.S. 113-203. ~~Lease Shellfish lease~~
7 and franchise holders shall first obtain a relay permit from the Fisheries Director setting forth the time, area, and
8 method by which such shellfish may be taken. The procedures and requirements for obtaining permits are found in
9 15A NCAC 03O .0500.

10 (b) The application for a relay permit shall be received by the Division of Marine Fisheries at least 15 days prior to
11 the start of relaying activities.

12 (c) All relaying activities, including removal, transport, and planting, shall be monitored and observed by the Division.

13 ~~(b)(d)~~ The season for relaying clams shall be between April 1 and May 15 and the season for relaying oysters shellfish
14 shall be for may occur within a specified six week period between the date of the statewide closure of oyster season
15 and June 30, as determined by the Fisheries Director based on the following factors:

- 16 (1) the status of ~~oyster shellfish~~ resources available for harvest from public ~~bottom and bottom;~~
17 (2) surface water temperatures that are below 50° F (10° C), when shellfish relay shall not occur;
18 (3) market factors affecting sale of ~~oysters shellfish~~ from public ~~bottom which will assist in determining~~
19 the statewide closure date ~~bottom;~~ and
20 (4) ~~manpower available~~ availability of Division of Marine Fisheries staff to monitor and observe the
21 shellfish relaying activity.

22 ~~(e) For areas designated by the Fisheries Director as sites where shellfish would otherwise be destroyed in~~
23 maintenance dredging operations, the season as set out in Paragraph (b) of this Rule shall not apply.

24 ~~(d)(e)~~ The Fisheries Director, acting upon recommendations of the Division of Environmental Health, shall close and
25 reopen by proclamation any ~~private shellfish beds lease or franchise~~ for which the owner has obtained a permit to
26 relay ~~oysters and clams shellfish~~ from ~~prohibited (polluted) polluted~~ public waters, waters or franchises. The leases
27 and franchises shall remain closed until the Fisheries Director issues a proclamation to reopen the leases and franchises
28 to harvest. The reopening of the leases and franchises shall not occur any sooner than 21 days after the end of the relay
29 season described in Paragraph (d) of this Rule.

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31 *History Note: Authority G.S. 113-134; 113-182; 113-203; ~~113-221~~; 113-221.1; 143B-289.52;*

32 *Eff. January 1, 1991;*

33 *Amended Eff. March 1, 1996; September 1, 1991;*

34 *Temporary Amendment Eff. October 1, 2001;*

35 *Amended Eff. April 1, 2003;*

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

1 15A NCAC 03K .0107 is proposed for readoption with substantive changes as follows:

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3 **15A NCAC 03K .0107 DEPURATION OF SHELLFISH ~~CLAMS AND OYSTERS~~**

4 (a) It ~~is~~ shall be unlawful to take clams or oysters from ~~the polluted public or private prohibited (polluted) waters or~~
5 franchises of the state State for the purpose of depuration except when the harvest will utilize ~~shellfish clams or oysters~~
6 that would otherwise be destroyed in maintenance dredging operations. All harvest and transport activities within the
7 State of North Carolina related to depuration shall be under the supervision of the Division of Marine Fisheries ~~or the~~
8 ~~Division of Environmental Health Fisheries. For the purpose of this Rule, the term depuration does not include~~
9 ~~relaying of clams or oysters from shellfish leases or franchises as authorized by 15A NCAC 03K .0104.~~

10 (b) The Fisheries Director, may, by proclamation, impose any ~~or all~~ of the following restrictions on the harvest of
11 clams or oysters for depuration:

- 12 (1) ~~Specify~~ specify species;
- 13 (2) ~~Specify areas~~ specify areas, except harvest ~~will~~ shall not be allowed from designated buffer zones
14 adjacent to sewage outfall facilities;
- 15 (3) ~~Specify~~ specify harvest days;
- 16 (4) ~~Specify time period;~~ specify time;
- 17 (5) ~~Specify~~ specify quantity ~~or size~~;
- 18 (6) specify quantity;
- 19 (6)(7) ~~Specify~~ specify harvest methods; and
- 20 (7)(8) ~~Specify~~ specify record keeping requirements.

21 (c) Depuration permits:

- 22 (1) ~~It is~~ it shall be unlawful for individuals to harvest clams or oysters from ~~prohibited (polluted)~~
23 polluted waters for the purpose of depuration unless they have obtained a Depuration Permit or are
24 listed as designees on a Depuration Permit from the Division of Marine Fisheries ~~and Division of~~
25 ~~Environmental Health~~ setting forth the method of harvest to be employed. Permits shall be issued
26 to licensed North Carolina ~~Clam or Oyster Dealers~~ clam or oyster dealers only. Permittees and
27 designees harvesting under Depuration Permits ~~must~~ shall have a current Shellfish License or
28 Shellfish Endorsement on a Standard or Retired Standard Commercial Fishing License. The
29 procedures and requirements for obtaining permits are found in 15A NCAC 03O .0500.
- 30 (2) ~~In~~ in addition to information required in 15A NCAC 03O .0501, the permit application shall provide
31 the name, address, ~~location~~ location, and telephone number of the depuration operation where the
32 shellfish will be depurated.
- 33 (3) ~~Clam or Oyster Dealers~~ clam or oyster dealers desiring to obtain ~~prohibited (polluted)~~ clams or
34 oysters from polluted waters for the purpose of depuration shall apply for a depuration permit at
35 least 15 days prior to initiation of operation.

36 (d) Transport of clams or oysters for depuration:

1 (1) ~~Clams-clams~~ or oysters harvested from ~~prohibited (polluted)~~ polluted waters for depuration in a
2 depuration operation located within the State of North Carolina shall be transported under the
3 supervision of the ~~Division of Marine Fisheries or the Division of Environmental Health~~ Division.

4 (2) ~~Clams-clams~~ or oysters harvested from ~~prohibited (polluted)~~ polluted waters for depuration in a
5 depuration operation outside the State of North Carolina shall not be transported within the State of
6 North Carolina except under the supervision of the ~~Division of Marine Fisheries or the Division of~~
7 Environmental Health Division.

8 (e) It ~~is~~ shall be unlawful to ship clams or oysters harvested for depuration to depuration facilities located in a state
9 other than North Carolina unless the facility is in compliance with the applicable rules and laws of the shellfish control
10 agency of that state.

11 (f) ~~The procedures and requirements for obtaining permits are found in 15A NCAC 03O .0500.~~

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13 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-221.1; 143B-289.52;*

14 *Eff. January 1, 1991;*

15 *Temporary Amendment Eff. October 1, 2001;*

16 *Amended Eff. October 1, 2008; April 1, 2003;*

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

1 15A NCAC 03K .0109 is proposed for readoption with substantive changes as follows:

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3 **15A NCAC 03K .0109 SHELLFISH HARVESTER-HARVEST AND DEALER-TAGS**

4 ~~It is~~ Consistent with the requirements of this Rule, it shall be unlawful to possess or sell oysters, clams, or mussels
5 taken in a commercial fishing operation without a harvest tag affixed to each container of oysters, ~~clams~~ clams, or
6 mussels. Tags shall be affixed by the harvester ~~or dealer~~ and remain in place while being transported to a certified
7 shellfish dealer. Harvest tags shall remain attached to the container until the certified shellfish dealer breaks open the
8 container for washing, grading, packing, other processing, or the container is shipped. Once the initial container is
9 broken open or is emptied the harvest tag shall be kept on file, in chronological order, by the certified shellfish dealer
10 for 90 days. It shall be unlawful for the tag to fail to ~~and shall~~ meet the following criteria:

- 11 (1) ~~Tags~~ harvest tags shall be identified as harvest tags. They shall be durable for at least 90 days, ~~water~~
12 ~~resistant, waterproof,~~ and a minimum of two and five-eighths inches by five and one-fourth inches
13 in size.
- 14 (2) ~~Tags~~ harvest tags shall be securely fastened to ~~the outside of~~ each container in which shellstock is
15 transported. A ~~harvester or dealer~~ harvest tag shall ~~be remain~~ securely fastened to the outside of
16 each container at a certified shellfish dealer until replaced by a dealer tag once the container is
17 broken open for processing or is shipped. Requirements for dealer tags are described in 15A NCAC
18 18A .0425, location except, bulk shipments of shellfish in one container and from the same source
19 may have one tag with all required information attached. Harvesters who are also certified shellfish
20 dealers may use only their dealer tag if it contains the required harvest and dealer information. The
21 required information shall be included on all lots of shellfish subdivided or combined into market
22 grades or market quantities by a harvester or a certified shellfish dealer.
- 23 (3) ~~Tags shall be attached to all shellfish stored at a dealer location.~~ bulk harvest tags may be used when
24 shellfish are harvested from one growing area on a single day by an individual harvester. Multiple
25 containers may be utilized on a wrapped pallet, in a single boat, vehicle, conveyance, or other
26 container, and tagged with a single harvest tag containing the information required in this Rule. The
27 bulk tag shall also include a statement that "All shellstock containers in this lot have the same harvest
28 date and area of harvest.", and include the number of individual containers in the unit or an estimate
29 of the total weight, volume, or count.
- 30 (4) ~~Tags~~ tags shall contain legible information arranged in the specific order as follows:
- 31 (a) ~~The the~~ harvester's name, ~~address~~ address, and ~~shellfish license or standard or retired~~
32 ~~standard commercial fishing license~~ Shellfish License or Standard or Retired Standard
33 Commercial Fishing License with shellfish endorsement ~~number~~ number;
- 34 (b) ~~The the~~ date of ~~harvest~~ harvest;
- 35 (c) ~~The the~~ most precise ~~description~~ identification of the harvest location as is practicable (e.g.,
36 Long Bay, Rose Bay) ~~that can be easily located by maps and charts.~~ Bay), including at a
37 minimum the State's two initials "N.C." and the growing area designation;

- 1 (d) the shellfish lease or franchise number, if applicable;
2 ~~(d)~~(e) Type ~~type~~ and quantity of ~~shellfish~~-shellfish;
3 ~~(e)~~(f) ~~The~~ the following statement in bold, capitalized ~~type;font:~~ "THIS TAG IS REQUIRED TO
4 BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON
5 ~~FILE FILE, IN CHRONOLOGICAL ORDER, FOR 90 DAYS~~"-DAYS."; and
6 ~~(f)~~(g) the time of the start of harvest. The time of the start of harvest shall be the time when the
7 first shellfish is initially removed from the water.
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9 *History Note:* *Authority G.S. 113-134; 113-168.5; 113-169.2; 113-182; ~~113-221~~; 143B-289.52;*

10 *Eff. October 1, 2008;*

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

1 15A NCAC 03K .0208 is proposed for reoption with substantive changes as follows:

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3 **15A NCAC 03K .0208 SEED OYSTER MANAGEMENT AREAS**

4 (a) For the purpose of this Rule and 15A NCAC 03R .0116, "Seed Oyster Management Area" shall mean a shellfish
5 producing habitat area located in open harvest waters that has environmental conditions unsuitable for shellfish growth
6 and survival that is designated to establish a localized regulatory strategy to allow the transfer of oysters to shellfish
7 leases or franchises that have more suitable environmental conditions for further grow-out.

8 (b) The Fisheries Director may, by proclamation, modify or close Seed Oyster Management Areas designated in 15A
9 NCAC 03R .0116 for the protection of public health related to the public health programs under the authority of the
10 Marine Fisheries Commission.

11 ~~(c)~~ (c) It is shall be unlawful to take oysters from Seed Oyster Management Areas designated in 15A NCAC 03R
12 .0116 for planting on shellfish leases or franchises without first obtaining a Permit to Transplant Oysters from Seed
13 Oyster Management Areas from the Fisheries Director. The procedures and requirements for obtaining permits are set
14 forth in 15A NCAC 03O .0501.

15 ~~(d)~~ (d) It is shall be unlawful to use a trawl net, long haul seine, or swipe net in any designated Seed Oyster
16 Management Area.

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18 *History Note: Authority G.S. 113-134; 113-182; 113-203; ~~113-221~~; 143B-289.52;*

19 *Eff. October 1, 2008;*

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

1 15A NCAC 03K .0209 is proposed for readoption with substantive changes as follows:

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3 **15A NCAC 03K .0209 OYSTER SANCTUARIES**

4 ~~(a) It is unlawful to use a trawl net, long haul seine, or swipe net in Oyster Sanctuaries designated in 15A NCAC 03R~~
5 ~~.0117. These areas shall be marked with signs or buoys. Unmarked and undesignated tributaries shall be the same~~
6 ~~designation as the designated waters to which they connect or into which they flow. No unauthorized removal or~~
7 ~~relocation of any such marker shall have the effect of changing the designation of any such body of water or portion~~
8 ~~thereof, nor shall any such unauthorized removal or relocation or the absence of any marker affect the applicability of~~
9 ~~any rule pertaining to any such body of water or portion thereof.~~

10 (a) For the purpose of this Rule and 15A NCAC 03R .0117, "Oyster Sanctuary" shall mean a type of artificial reef and
11 shellfish producing habitat constructed for the purpose of oyster restoration that is managed to sustain populations of
12 oyster broodstock. An Oyster Sanctuary is constructed to maximize habitat complexity and designed to meet its
13 intended function for a minimum of 30 years.

14 (b) The Fisheries Director may, by proclamation, close Oyster Sanctuary areas designated in 15A NCAC 03R .0117
15 to the use of specific fishing gears based on biological impacts or user conflicts.

16 (c) The Fisheries Director may, by proclamation, designate and modify Oyster Sanctuaries based on biological
17 impacts or variable spatial distribution, including shifted material.

18 ~~(b)(d) It is shall be unlawful to use mechanical methods for oystering or clamming in, or to take oysters or clams from~~
19 ~~shellfish from, Oyster Sanctuaries designated in 15A NCAC 03R .0117, .0117 or in accordance with Paragraph (c) of~~
20 ~~this Rule.~~

21 (e) It shall be unlawful to use a trawl net, long haul seine, or swipe net in any designated Oyster Sanctuary.

22
23 *History Note: Authority G.S. 113-134; 113-182; 113-201; 113-204; 143B-289.52;*

24 *Eff. October 1, 2008;*

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

1 15A NCAC 18A .0135 is proposed for readoption with substantive changes as follows:

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3 **15A NCAC 18A .0135 PERMITS**

4 (a) ~~No person shall~~ It shall be unlawful to operate a processing facility without a permit issued by the Division, first
5 obtaining a Crustacea Permit and Certificate of Compliance from the Division of Marine Fisheries.

6 (b) ~~No person shall operate a repacker facility without a repacker permit issued by the Division.~~

7 (c) ~~(b)~~ Application for a permit shall be submitted in writing on an application form available from to the Division.
8 Application forms may be obtained from the Division, P.O. Box 769, 3441 Arendell Street, Morehead City, NC 28557.

9 (d) ~~(c)~~ No permit shall be issued by the Division until an inspection by the Division shows that the facility and
10 equipment comply with applicable rules of this Section. The owner or responsible person shall sign the completed
11 inspection sheet to acknowledge receipt of the inspection sheet.

12 (e) ~~A permit issued to one person is not transferrable to another person.~~

13 (f) The permit shall be posted in a conspicuous place in the facility. ~~All permits shall expire on March 31 of each~~
14 ~~year.~~

15 (g) All permits shall expire on March 31 of each year and are non-transferrable.

16 (h) ~~(g)~~ Plans and specifications for proposed new construction, expansion of operations, or changes in
17 operating processes shall be submitted to the Division for review and approval prior to beginning
18 construction, construction or making a change.

19 (i) ~~(h)~~ A permit may be revoked or suspended pursuant to G.S. 130A-23, in accordance with 15A NCAC 03O .0504.

20 (j) ~~(i)~~ The owner or responsible person shall sign the completed inspection sheet to acknowledge receipt of the inspection
21 sheet.

22
23 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

24 *Eff. October 1, 1992;*

25 *Amended Eff. April 1, 1997;*

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

1 15A NCAC 18A .0302 is proposed for readoption with substantive changes as follows:

2
3 **15A NCAC 18A .0302 PERMITS**

4 (a) ~~No person shall~~ It shall be unlawful to operate any of the following facilities without a permit issued by the
5 Division: first obtaining a Shellfish Dealer Permit and Certificate of Compliance from the Division of Marine
6 Fisheries:

- 7 (1) ~~Depuration~~ depuration facilities;
- 8 (2) repacking plants;
- 9 ~~(2)(3)~~ Shellstock-shellstock plants; and
- 10 ~~(3)(4)~~ Shucking-shucking and packing plants; plants.
- 11 (4) ~~Repacking plants.~~

12 (b) ~~No person shall~~ It shall be unlawful to operate as a shellstock dealer without a permit issued by the Division: first
13 obtaining a Shellfish Dealer Permit and Certificate of Compliance from the Division.

14 (c) ~~A permit may be issued to a reshipper when required for out of state shipment.~~ It shall be unlawful to operate as a
15 reshipper without first obtaining a Shellfish Dealer Permit and Certificate of Compliance from the Division if shellfish
16 are purchased and shipped out of state.

17 (d) Approval for wet storage of shellstock shall be granted only to persons permitted pursuant to this Rule.

18 (e) Application for a permit shall be submitted in writing to the ~~Division at the Shellfish Sanitation Office, Fisheries~~
19 ~~Building, Arendell Street, Morehead City, North Carolina, 28557.~~ Division. Application forms are available may be
20 obtained from the Division, P.O. Box 769, 3441 Arendell Street, Morehead City, NC 28557.

21 (f) No permit shall be issued by the Division until an inspection by the Division shows that the ~~facilities~~ facility and
22 equipment comply with all applicable ~~rules~~ Rules in Sections .0300 through .0800 of this Subchapter. The owner or
23 responsible person shall sign the completed inspection sheet to acknowledge receipt of the inspection sheet.

24 (g) All permits shall be posted in a conspicuous place in the ~~facilities.~~ All permits shall expire on April 30 of each
25 year. ~~facility.~~

26 (h) All permits shall expire on April 30 of each year and are non-transferrable.

27 ~~(h)(i)~~ Plans and specifications for proposed new construction or remodeling construction, expansion of operations, or
28 changes in operating processes shall be submitted to the Division for review and approval. ~~approval prior to beginning~~
29 construction or making a change.

30 ~~(i)(j)~~ A permit may be revoked or suspended pursuant to G.S. 130A-23. in accordance with 15A NCAC 030 .0504.

31
32 *History Note:* Authority G.S. 130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;
33 Eff. February 1, 1987;
34 Amended Eff. April 1, 1997;
35 Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).

1 15A NCAC 18A .0303 is proposed for repeal through readoption as follows:

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3 **15A NCAC 18A .0303 RELAYING PERMITS**

4 ~~If a person is granted a relaying permit by the Division and the Division of Marine Fisheries, shellfish may be removed~~
5 ~~from certain designated prohibited areas for conditioning and purification prior to marketing and marketed after~~
6 ~~relaying in a large body of clean water, but only under the following conditions:~~

7 (1) ~~Application for relaying must be received by the North Carolina Division of Marine Fisheries and~~
8 ~~the Division 15 days prior to relaying.~~

9 (2) ~~Removal and relaying shall be under the supervision of the Division and the Division of Marine~~
10 ~~Fisheries.~~

11 (3) ~~Shellfish relayed from a prohibited area to a designated area of approved water shall remain down~~
12 ~~for a period of not less than fourteen days when the water in which shellfish are relayed has a~~
13 ~~temperature above 50°F (10°C). When the water temperature is below 50°F (10°C), shellfish shall~~
14 ~~not be relayed.~~

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16 *History Note: Authority G.S. 130A-230;*

17 *Eff. February 1, 1987;*

18 *Amended Eff. September 1, 1990;*

19 *Repealed Eff. (Pending legislative review of 15A NCAC 03K .0104).*

1 15A NCAC 18A .0304 is proposed for repeal through readoption as follows:

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3 **15A NCAC 18A .0304 DEPURATION HARVESTING PERMITS**

4 ~~If a person is granted a depuration harvesting permit by the Division and the Division of Marine Fisheries, shellfish~~
5 ~~may be removed from certain designated prohibited areas for depuration prior to marketing and marketed after~~
6 ~~depuration in a permitted facility, but only under the following conditions:~~

7 (1) ~~Application for a depuration harvesting permit must be received by the Division of Marine Fisheries~~
8 ~~and the Division 15 days prior to harvesting for depuration purposes.~~

9 (2) ~~Harvesting for depuration purposes shall be under the supervision of the Division and the Division~~
10 ~~of Marine Fisheries.~~

11

12 *History Note: Authority G.S. 130A-230;*

13 *Eff. February 1, 1987;*

14 *Amended Eff. September 1, 1990;*

15 *Repealed Eff. May 1, 2022.*

1 15A NCAC 18A .0425 is proposed for readoption with substantive changes as follows:

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3 **15A NCAC 18A .0425 TAGGING-DEALER TAGS**

4 (a) ~~In order that information may be available to the Division with reference to the origin of shellstock, Consistent~~
5 ~~with the rules of this Section, it shall be unlawful to possess containers holding shellstock shall be identified with~~
6 ~~without a uniform dealer tag or label affixed after the shellstock is processed or shipped by the initial certified shellfish~~
7 ~~dealer. The tag shall be durable, ~~waterproof~~ waterproof, and ~~measure at least 2 5/8 by 5 1/4 inches (6.7 by 13.3~~
8 ~~centimeters)~~ a minimum of two and five-eighths inches by five and one-fourth inches in size. The ~~It shall be unlawful~~
9 ~~for the tag shall to fail to~~ contain legible information arranged in the specific order as follows:~~

- 10 (1) the dealer's name, ~~address~~ address, and certification number assigned by the appropriate shellfish
11 control agency;
- 12 (2) the original shipper's certification number;
- 13 (3) the harvest ~~date~~ date, or if deperated, the date of deperation processing, or if wet stored, the original
14 harvest date, and the final harvest date, which is the date removed from wet storage;
- 15 (4) if wet stored or deperated, the wet storage or deperation cycle or lot number. The wet storage lot
16 number shall begin with the letter "W";
- 17 (4)(5) ~~the harvest location, including the country or state abbreviation;~~ the most precise identification of
18 the harvest location as is practicable, including the initials of the state of harvest, and the state or
19 local shellfish control authority's designation of the growing area by indexing, administrative, or
20 geographic designation. If the authority in another state has not indexed growing areas, then a
21 geographical or administrative designation shall be used (e.g., Long Bay, shellfish lease or franchise
22 number, or lot number);
- 23 (5) ~~when the shellstock has been in wet storage, the statement "THIS PRODUCT WAS IN WET~~
24 ~~STORAGE AT (FACILITY CERTIFICATION NUMBER) FROM (DATE) TO (DATE)";~~
- 25 (6) the type and quantity of ~~shellfish~~ shellstock;
- 26 (7) the following ~~statement shall appear~~ statements in bold ~~bold~~ bold, capitalized ~~type font~~:
 - 27 (A) "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND
28 THEREAFTER KEPT ON FILE FILE, IN CHRONOLOGICAL ORDER, FOR 90
29 DAYS;" DAYS."; and
 - 30 (B) "RETAILERS; DATE WHEN LAST SHELLFISH FROM THIS CONTAINER SOLD
31 OR SERVED (INSERT DATE) .";
- 32 (8) the following statement, or ~~equivalent~~ equivalent:

33 "Consumer Advisory
34 Eating raw oysters, ~~clams~~ clams, or mussels may cause severe illness. People with the following
35 conditions are at especially high risk: liver disease, alcoholism, diabetes, cancer, stomach or blood
36 disorder, or weakened immune system. Ask your doctor if you are unsure of your risk. If you eat
37 raw shellfish and become sick, see a doctor ~~immediately~~ immediately."; and

1 (9) the following statement, or equivalent:

2 "Keep Refrigerated".

3 (b) The ~~uniform-dealer~~ tag or label shall remain attached to the shellstock container until the container is empty and
4 thereafter shall be kept on ~~file-file~~, in chronological order, for 90 days.

5 ~~(c) All shellstock from a depuration facility must be identified as having been cleansed by a depuration facility~~
6 ~~identified by a name and permit number on the tag.~~

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8 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

9 *Eff. February 1, 1987;*

10 *Amended Eff. April 1, 1997; January 4, 1994; December 1, 1987;*

11 *Temporary Amendment Eff. October 12, 1998; February 1, 1998;*

12 *Amended Eff. April 1, 1999;*

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

1 15A NCAC 18A .0912 is proposed for repeal through readoption as follows:

2

3 **15A NCAC 18A .0912 SHELLFISH MANAGEMENT AREAS**

4 ~~When the Division of Marine Fisheries begins operations to relocate shellfish from a restricted or conditionally~~
5 ~~approved area to an approved area, the Division will recommend to the Division of Marine Fisheries that the area of~~
6 ~~relocation be closed until cleansing requirements for relayed shellfish have been satisfied.~~

7

8 *History Note: Authority G.S. 130A-230;*

9 *Eff. June 1, 1989;*

10 *Repealed Eff. May 1, 2022.*