

**N.C. Marine Fisheries Commission Rules Effective May 1, 2022  
Form 0300 Notice of Text (Attachment)  
7. Explain Reason for Proposed Rule(s):**

**15A NCAC 03I .0109 RESEARCH SANCTUARIES  
15A NCAC 03J .0404 OCEAN ARTIFICIAL REEF GEAR RESTRICTIONS  
15A NCAC 03R .0119 OCEAN ARTIFICIAL REEFS**

In accordance with G.S. 150B-21.3A, one rule in 15A NCAC 03I is proposed for readoption and two rules in 15A NCAC 03J and 03R are proposed for adoption to restrict highly efficient fishing gears on artificial reefs in State ocean waters to protect all species of finfish, as a complement to the restrictions for artificial reefs in the Exclusive Economic Zone for snapper grouper species. The rules set requirements for research sanctuaries and artificial reefs in State waters, define highly efficient gears, and codify the geographic boundaries of the 13 existing artificial reef sites in State ocean waters. The purpose of the State artificial reef programs is to develop hard bottom habitat that aggregate fishery resources and improve user access to fisheries. By restricting the use of highly efficient fishing gears on artificial reefs, the likelihood of overexploitation is reduced. Gears with this characteristic may be considered all those other than hand line, hook and line, rod and reel, and spearfishing gear. All harvest by spearfishing gear would be restricted to recreational limits.

**15A NCAC 03K .0111 PERMITS TO USE MECHANICAL METHODS FOR SHELLFISH ON SHELLFISH LEASES OR FRANCHISES  
15A NCAC 03O .0203 SHELLFISH LEASE APPLICATION PROCESSING  
15A NCAC 03O .0205 SHELLFISH LEASE RENEWAL  
15A NCAC 03O .0206 SHELLFISH LEASE APPLICATION: REQUEST FOR REVIEW  
15A NCAC 03O .0207 SHELLFISH LEASE AND FRANCHISE PRODUCTION REPORTS  
15A NCAC 03O .0208 TERMINATION PROCEDURES FOR SHELLFISH LEASES AND FRANCHISES  
15A NCAC 03O .0209 ASSIGNMENT OF SHELLFISH LEASES AND FRANCHISES  
15A NCAC 03O .0210 STANDARDS AND REQUIREMENTS FOR FRANCHISES  
15A NCAC 03O .0211 FISHING GEAR REQUIREMENTS FOR SHELLFISH LEASES AND FRANCHISES**

In accordance with G.S. 150B-21.3A, nine rules 15A NCAC 03 are proposed for readoption and repeal through readoption to further address recommendations laid out in Session Law 2019-37 and the subsequent Shellfish Aquaculture User Conflict Study completed by the Department of Environmental Quality, Division of Marine Fisheries, and Marine Fisheries Commission. Most rule changes conform to three other recently approved shellfish lease rules. Additional changes are proposed to continue supporting the efficiency of the State's shellfish lease program and production. Specifically, changes seek to streamline and shorten processes for shellfish lease applications, shellfish lease application grievances by the public, production reporting requirements, and shellfish lease transfers and subleases.

**15A NCAC 03I .0113 BIOLOGICAL SAMPLING  
15A NCAC 03I .0118 DISPOSAL OF EVIDENCE  
15A NCAC 03J .0101 FIXED OR STATIONARY NETS  
15A NCAC 03J .0110 SEINES  
15A NCAC 03J .0302 RECREATIONAL USE OF POTS  
15A NCAC 03K .0101 PROHIBITED ACTIVITIES IN POLLUTED SHELLFISH AREAS  
15A NCAC 03K .0102 RAKES PROHIBITED  
15A NCAC 03K .0105 RECREATIONAL HARVEST OF SHELLFISH  
15A NCAC 03K .0106 TAKING OR UNLOADING OYSTERS AND CLAMS ON SUNDAY OR AT NIGHT  
15A NCAC 03K .0108 DREDGES AND MECHANICAL METHODS PROHIBITED  
15A NCAC 03K .0201 OYSTER HARVEST MANAGEMENT  
15A NCAC 03K .0202 CULLING REQUIREMENTS FOR OYSTERS  
15A NCAC 03K .0204 MECHANICAL METHODS FOR OYSTERING PROHIBITED  
15A NCAC 03K .0207 OYSTER SIZE AND HARVEST LIMIT EXEMPTIONS  
15A NCAC 03K .0301 SIZE AND HARVEST LIMITS OF CLAMS**

15A NCAC 03K .0302	MECHANICAL HARVEST OF CLAMS FROM PUBLIC BOTTOM
15A NCAC 03K .0304	PROHIBITED TAKING OF CLAMS
15A NCAC 03K .0305	CLAM SIZE AND HARVEST LIMIT EXEMPTIONS
15A NCAC 03K .0401	POLLUTED AREA PERMIT REQUIREMENTS
15A NCAC 03K .0505	SEA SCALLOPS SIZE LIMIT AND TOLERANCE
15A NCAC 03L .0101	SHRIMP HARVEST RESTRICTIONS
15A NCAC 03L .0102	WEEKEND SHRIMPING PROHIBITED
15A NCAC 03L .0103	PROHIBITED NETS, MESH LENGTHS, AND AREAS
15A NCAC 03L .0105	RECREATIONAL SHRIMP LIMITS
15A NCAC 03M .0201	STRIPED BASS REQUIREMENTS; GENERAL
15A NCAC 03M .0202	STRIPED BASS SEASON, SIZE, AND HARVEST LIMIT: INTERNAL WATERS
15A NCAC 03M .0204	STRIPED BASS SEASON, SIZE, AND HARVEST LIMIT: ATLANTIC OCEAN
15A NCAC 03M .0205	STRIPED BASS; PROHIBITED TRAWLING
15A NCAC 03M .0503	FLOUNDER
15A NCAC 03N .0104	PROHIBITED GEAR, PRIMARY NURSERY AREAS
15A NCAC 03N .0105	PROHIBITED GEAR, SECONDARY NURSERY AREAS
15A NCAC 03O .0301	ELIGIBILITY FOR RECREATIONAL COMMERCIAL GEAR LICENSES
15A NCAC 03O .0302	AUTHORIZED GEAR FOR RECREATIONAL COMMERCIAL GEAR LICENSES
15A NCAC 03O .0303	POSSESSION LIMITS FOR RECREATIONAL COMMERCIAL GEAR LICENSES
15A NCAC 03O .0401	STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY BOARD
15A NCAC 03O .0402	STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY APPLICATION PROCESS
15A NCAC 03O .0403	STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY BOARD REVIEW
15A NCAC 03O .0404	STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY CRITERIA
15A NCAC 03O .0405	STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY APPLICATION DOCUMENTATION
15A NCAC 03O .0406	STANDARD COMMERCIAL FISHING LICENSE ELIGIBILITY POOL CERTIFICATION

In accordance with G.S. 150B-21.3A, 40 rules in 15A NCAC 03 are proposed for readoption that relate to general rules, gear, shellfish, crustacea, finfish, nursery areas, and licenses. The rules have been reviewed to conform to rulemaking requirements and contain clarifying and technical changes.

15A NCAC 03I .0101	DEFINITIONS
15A NCAC 03I .0104	INTRODUCE, TRANSFER, OR HOLD IMPORTED MARINE AND ESTUARINE ORGANISMS
15A NCAC 03I .0114	RECORDKEEPING REQUIREMENTS
15A NCAC 03J .0105	PURSE SEINES
15A NCAC 03J .0109	LONG HAUL AND SWIPE NET REQUIREMENTS
15A NCAC 03J .0305	TROT LINES (MULTIPLE HOOK OR MULTIPLE BAIT)
15A NCAC 03K .0205	MARKETING OYSTERS TAKEN FROM A SHELLFISH LEASE OR FRANCHISE
15A NCAC 03K .0507	MARKETING SCALLOPS TAKEN FROM A SHELLFISH LEASE OR FRANCHISE
15A NCAC 03O .0101	PROCEDURES AND REQUIREMENTS TO OBTAIN LICENSES, ENDORSEMENTS, AND COMMERCIAL FISHING VESSEL REGISTRATIONS
15A NCAC 03O .0102	PROCEDURES AND REQUIREMENTS TO RENEW LICENSES, ENDORSEMENTS, AND COMMERCIAL FISHING VESSEL REGISTRATIONS
15A NCAC 03O .0103	AUXILIARY VESSELS
15A NCAC 03O .0104	COMMERCIAL UNLOADING OF FISH
15A NCAC 03O .0105	MUSSEL DEALERS
15A NCAC 03O .0107	LICENSE REPLACEMENT AND FEES
15A NCAC 03O .0109	ASSIGNMENT OF STANDARD COMMERCIAL FISHING LICENSE
15A NCAC 03O .0110	LICENSE REFUNDS

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

**15A NCAC 03R .0111 PURSE SEINES PROHIBITED**

In accordance with G.S. 150B-21.3A, 18 rules in 15A NCAC 03 are proposed for readoption that relate to definitions, imported species, recordkeeping, gear, marketing shellfish, and licenses. Overall, most changes are conforming and technical in nature. Small benefits are expected related to removing a time requirement for obtaining a tournament license and by broadening the types of recordkeeping permissible for inspection by Marine Fisheries Inspectors at fish dealer locations by including electronic trip tickets. A proposed change to marking requirements for commercial trotlines would likely incur a small financial cost to select fishermen. The change is expected to make trotlines easier to identify and monitor, as well as result in consistent marking requirements across gear types. A small opportunity cost is expected for a portion of shellfish lease holders to obtain and comply with the reporting requirements of an aquaculture operation permit. The permit consolidates all existing shellfish lease requirements into a single management tool and over half of lease holders already hold the permit. Having all shellfish lease holders subject to the same permit requirement facilitates the tracking and monitoring of shellfish leases overall and the timely handling of potential public health issues, ultimately enhancing the resource.

**15A NCAC 03J .0301 POTS**

**15A NCAC 03L .0201 CRAB HARVEST RESTRICTIONS**

**15A NCAC 03L .0202 CRAB TRAWLING**

**15A NCAC 03L .0203 CRAB DREDGING**

**15A NCAC 03L .0204 CRAB POTS**

**15A NCAC 03L .0205 CRAB SPAWNING SANCTUARIES**

**15A NCAC 03R .0110 CRAB SPAWNING SANCTUARIES**

**15A NCAC 03R .0118 CRAB HARVEST MANAGEMENT AREAS**

In accordance with G.S. 150B-21.3A, eight rules in 15A NCAC 03 are proposed for readoption and amendment that conform rule language with new blue crab and gear management measures approved through Amendment 3 to the N.C. Blue Crab Fishery Management Plan. All of these new measures are already in effect via proclamation following adoption of the plan by the Marine Fisheries Commission in February 2020. The proposed changes codify these existing requirements in permanent rule. A proposed change to marking requirements for pots would likely incur a small financial cost to select fishermen. The change is expected to make pots easier to identify and monitor, as well as result in consistent marking requirements across gear types. The Division of Marine Fisheries estimates at least half of commercial fishermen using this gear already meet the requirements.

**15A NCAC 03I .0105 LEAVING DEVICES UNATTENDED**

**15A NCAC 03J .0501 DEFINITIONS AND STANDARDS FOR POUND NETS AND POUND NET SETS**

**15A NCAC 03J .0502 POUND NET SET PERMIT APPLICATION AND PROCESSING**

**15A NCAC 03J .0503 POUND NET SET PERMIT RENEWAL**

**15A NCAC 03J .0504 POUND NET SET PERMIT TRANSFER**

**15A NCAC 03J .0505 POUND NET SET PERMIT CONDITIONS**

**15A NCAC 03O .0111 SURRENDER OF LICENSES**

**15A NCAC 03O .0114 SUSPENSION, REVOCATION, AND REISSUANCE OF LICENSES**

**15A NCAC 03O .0502 PERMIT CONDITIONS**

**15A NCAC 03O .0504 SUSPENSION AND REVOCATION OF PERMITS**

**15A NCAC 03P .0101 LICENSE, PERMIT, OR CERTIFICATE DENIAL: REQUEST FOR REVIEW**

In accordance with G.S. 150B-21.3A, 11 rules in 15A NCAC 03 are proposed for readoption that conform rules related to permit and license suspensions and revocations to standards of the Administrative Procedure Act (G.S. 150B) and increase clarity of the rules. The majority of changes are conforming and clarifying amendments that incur no impacts. Proposed changes with anticipated impacts provide authority to deal with rare events related to permits and licenses; provide significant context to the differences in license and permit suspensions, revocations, and requirements; and provide administrative alternatives to increase overall Division of Marine Fisheries efficiency. Changes proposed to 15A NCAC 03J .0501 for Pound Net Set Permits would delegate narrow proclamation authority to the division director to waive the 30-day pound net set requirement for the southern flounder fishery that has seasons that are now less than 30 days in length, maintaining compliance with the requirements of Amendment 2 to the N.C. Southern Flounder Fishery Management Plan. In all, these proposed changes provide benefits in terms of increased division efficiency and increased protection of marine and estuarine resources.

- 15A NCAC 03P .0102 CONTESTED CASE HEARING PROCEDURES**
- 15A NCAC 03P .0201 DECLARATORY RULINGS: GENERALLY**
- 15A NCAC 03P .0202 PROCEDURE FOR REQUESTING DECLARATORY RULINGS**
- 15A NCAC 03P .0203 DISPOSITION OF REQUESTS FOR DECLARATORY RULING**
- 15A NCAC 03P .0301 FORM AND CONTENTS OF PETITIONS FOR RULEMAKING**
- 15A NCAC 03P .0302 REVIEW OF RULEMAKING PETITIONS BY A COMMITTEE OF THE COMMISSION**
- 15A NCAC 03P .0303 PRESENTATION OF RULEMAKING PETITIONS TO THE COMMISSION**
- 15A NCAC 03P .0304 RECOURSE TO DENIAL OF THE PETITION**

In accordance with G.S. 150B-21.3A, eight rules in 15A NCAC 03 are proposed for readoption and repeal through readoption that conform administrative procedures rules to the requirements of the Administrative Procedure Act, namely G.S. 150B-4, Declaratory rulings, G.S. 150B-20, Petitioning an agency to adopt a rule, and several articles of 150B that address administrative hearings and their judicial review. Throughout the rules, elements that merely repeat the content of law are proposed to be struck, per G.S. 150B-19. Additional proposed changes make minor technical and clarifying amendments. Overall, the proposed changes would increase efficiency in contested case hearings, declaratory rulings, and petitions for rulemaking. One proposed change in 15A NCAC 03P .0301 removes the burden for petitioners to submit 15 hard copies of a petition since the majority of petitions are submitted electronically.

- 15A NCAC 03K .0103 SHELLFISH MANAGEMENT AREAS**
- 15A NCAC 03K .0104 PERMITS FOR RELAYING SHELLFISH FROM POLLUTED AREAS**
- 15A NCAC 03K .0107 DEPURATION OF CLAMS AND OYSTERS**
- 15A NCAC 03K .0109 SHELLFISH HARVEST TAGS**
- 15A NCAC 03K .0208 SEED OYSTER MANAGEMENT AREAS**
- 15A NCAC 03K .0209 OYSTER SANCTUARIES**
- 15A NCAC 18A .0135 PERMITS**
- 15A NCAC 18A .0302 PERMITS**
- 15A NCAC 18A .0303 RELAYING PERMITS**
- 15A NCAC 18A .0304 DEPURATION HARVESTING PERMITS**
- 15A NCAC 18A .0425 DEALER TAGS**
- 15A NCAC 18A .0912 SHELLFISH MANAGEMENT AREAS**

In accordance with G.S. 150B-21.3A, 12 rules in 15A NCAC 03 and 18A are proposed for adoption and repeal through readoption that relate to crustacea and shellfish and set specific requirements for shellfish management areas, depuration of shellfish, crustacea and shellfish permits, and shellfish tagging. Session Law 2011-145 abolished the Division of Environmental Health and transferred the Shellfish Sanitation and Recreational Water Quality Section to the Division of Marine Fisheries under a Type I transfer. Prior to this change, the Division of Environmental Health advised the Division of Marine Fisheries on certain matters relating to public health of crustacea and shellfish and the Division of Environmental Health rules bore this out by one division advising the other. Now that the authority for these rules all fall under the Marine Fisheries Commission, amendments are proposed to rules that have overlapping content, including the repeal through readoption of three rules.

In addition, amendments are proposed to increase efficiency for the Division of Marine Fisheries by making rule requirements more clear and consistent and by moving established requirements from proclamations and permit conditions into rules. Additional proposed amendments to shellfish management areas would broaden the Division of Marine Fisheries director's proclamation authority to address variable conditions. Changes to crustacea and shellfish permits and dealer tags would clearly make it unlawful to engage in the listed activities without first obtaining the required permit and certificate of compliance, or if dealer tags are not being included on shellstock. The amendments would enhance the protection of public health by strengthening the ability of Marine Fisheries Inspectors to enforce crustacea and shellfish permit, and harvest and dealer requirements in case it is needed if someone was out of compliance, although typically voluntary compliance is achieved.