

Fiscal Impact Analysis of Proposed Conforming Rule Changes for Permit Rules

Rule Amendments: 15A NCAC 03I .0101, .0114, 03O .0501-.0503

Name of Commission: N.C. Marine Fisheries Commission

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

AUTHORITY

N.C. General Statutes

G.S. § 113-134.	Rules.
G.S. § 113-168.2.	Standard Commercial Fishing License.
G.S. § 113.168.3.	Retired Standard Commercial Fishing License.
G.S. § 113-169.1.	Permits for gear, equipment, and other specialized activities authorized.
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. § 113-170.	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. § 113-174.	Definitions.
G.S. § 113-181.	Duties and powers of Department.
G.S. § 113-182.	Regulation of fishing and fisheries.
G.S. § 113-210.	Under Dock Oyster Culture.
G.S. § 143B-289.52.	Marine Fisheries Commission - powers and duties.
15A NCAC 03H .0103	Proclamations, General
15A NCAC 03O .0502	General Permit Conditions
15A NCAC 03O .0504	Suspension and Revocation of Permits
15A NCAC 03O .0506	Special Permit Required for Specific Management Purposes

Necessity: According to the Administrative Procedure Act (APA), specifically G.S. § 150B-19.1(b), the Marine Fisheries Commission (MFC) is charged with reviewing its rules annually to identify existing rules that are unnecessary, unduly burdensome, or inconsistent with the

principles set forth in G.S. § 150B-19.1(a). Division of Marine Fisheries (DMF) employees reviewed MFC rules with permit requirements and identified amendments needed for several rules. The proposed amendments to the MFC rules with permit requirements include adding four permits to permanent rule that are currently issued by proclamation. The proposed amendments also require any seafood dealer that reports trip tickets electronically to report quota monitoring logs electronically; relocate from proclamation to rule the permit condition that makes it unlawful to refuse to allow DMF employees to obtain data for the conservation and management of marine and estuarine resources and public health protection; add email as an additional means to satisfy call-in requirements for two permits; broaden the definition of "educational institution" to better align with the original purpose of two permits; add links to webpages in rules for supporting information that can change frequently; remove the requirement to notarize a permit application, instead requiring the initial permit general conditions form to be notarized; repeal the Horseshoe Crab Biomedical Use Permit; and make clarifying and conforming changes.

I. Summary

These actions would add requirements to permanent rules that are no longer variable in nature, increase efficiencies for quota monitoring, protect DMF employees and improve data collection and public health protection, reduce the burden on regulated stakeholders, clarify rules, and remove outdated or unnecessary requirements from rules. The following sub-sections provide background information about the affected permits, processes, and requirements. Proposed rule amendments and expected fiscal impacts are also discussed.

II. Rule Changes and Anticipated Fiscal Impacts

Estuarine Flounder Dealer Permit

Dealer Permits for Quota Monitoring

The Estuarine Flounder Dealer Permit, which allows licensed fish dealers to purchase flounder landed in estuarine waters from licensed fishermen, is proposed to be relocated from proclamation to 15A NCAC 03O .0503(e), making it easier for stakeholders to find the requirements for the fishery in which they participate, and is consistent with the other dealer permits issued by the DMF.

Due to the fisheries management strategy used in the estuarine flounder fishery, commercial harvest may close and reopen during one season, so the description of the commercial season is proposed to be amended in 15A NCAC 03O .0503(e)(1) to reflect that dealers do not need to report while their areas are closed to commercial harvest during the season, and in (e)(1)(B) for submitting the quota monitoring log no later than five days after the close of the commercial harvest, not the commercial "season."

The addition of the Estuarine Flounder Dealer Permit in 2022, consistent with the N.C. Southern Flounder Fishery Management Plan Amendment 3, caused a marked increase in the total number of dealers that held at least one permit for monitoring fisheries under a quota or allocation – from 59 dealers to 148 (a 40% increase). Only two biologists within the DMF are tasked with monitoring quotas from this expanded group of stakeholders. This growth in permit holders necessitates clarification of reporting requirements and expansion of reporting methods to

maximize reporting efficiency and accuracy and minimize burden on dealers and DMF employees. Reporting by "electronic means" incorporates the established N.C. Trip Ticket Software, fax, email, and text message, as well as future electronic means such as VESL; VESL will be a future web-based application that commercial seafood dealers can use to submit their trip tickets and quota monitoring logs electronically to the DMF from any computer, tablet, or smartphone.

Additional proposed amendments to 15A NCAC 03O .0503(e)(1)(A) would require licensed dealers who report their trip tickets electronically ("e-dealers") who hold any permit for quota monitored species to submit their quota monitoring logs by electronic means. This proposed amendment could save dealers and DMF employees time and resources at no additional cost to the dealers. For the 2024 license year, 67 e-dealers hold permits for at least one quota monitored species. Of these 67 e-dealers, 16 permit holders choose to report their daily quota monitoring logs by phone rather than electronic means. Each quota monitoring report call takes approximately 45 seconds, and in 2024 the estuarine flounder season was open for 38 days. Requiring the dealers that use the DMF online reporting system to report their trip tickets to report their daily quota monitoring logs could save the DMF approximately 7.6 hours of time which could be used on other tasks (45 secs per call x 16 calls per day x 38 days = 7.6 hrs). So, adding a requirement that e-dealers submit their quota monitoring logs through electronic means would only affect a small subsection of the overall group and would allot extra time for DMF employees to follow up by phone with dealers that have not submitted their quota monitoring logs, especially when commercial harvest for a quota monitored species has ended and final accounting needs to occur. Under the current rule permit holders are required to report their daily quota monitoring logs at the end of the season if they call in for daily monitoring. The proposed amendments will discontinue the option to call the Division for daily reporting but will maintain the reporting requirement to fulfill daily quota monitoring logs and is not expected to increase the reporting burden on permit holders.

Related amendments are proposed to 15A NCAC 03I .0101(5) to add a definition for "quota monitoring log" and clarify it is distinct from the definition of "trip ticket". Regarding electronic reporting and for consistency with other MFC rules, reference to "web-based utilities" is included in the proposed definition for "quota monitoring log" and is proposed to be added to the existing definitions for "logbook" and "trip ticket". Proposed amendments to 15A NCAC 03I .0114(a)(7) and (a)(8) set the same recordkeeping requirements for quota monitoring logs as for trip tickets for licensed fish dealers but apply only to dealers holding a permit for monitoring fisheries under a quota or allocation, not all dealers.

Estuarine Gill Net Permit (EGNP)

The EGNP, which allows the use of estuarine anchored gill nets (i.e., "set" nets) in internal coastal and joint fishing waters for either commercial or recreational purposes, is proposed to be relocated from proclamation to 15A NCAC 03O .0503(f), making it easier for stakeholders to find the requirements for the fishery in which they participate. (Runaround, drop, or strike and drift gill nets are exempted from this management.) Additional proposed amendments to 15A

NCAC 03O .0501(b) would clarify existing requirements for holders of an EGNP to hold a valid Recreational Commercial Gear License, Standard Commercial Fishing License, or Retired Standard Commercial Fishing License. This is not a new requirement but would be relocated from proclamation to rule to aid in the clarity of existing requirements for regulated stakeholders. Relocating the permit requirements in rule would have no impact on holders of the permit as the application process, permit conditions, and reporting requirements would not change; all DMF permits are issued at zero cost.

Relocating the EGNP in rule would continue the DMF's efforts to remain in compliance with the Incidental Take Permit (ITP). The specific permit conditions outlined in the EGNP are critical to its functionality and most conditions are not expected to vary for the duration of the 10-year ITP. Conditions for EGNP holders to be accessible to DMF employees for setting up observer trips and collecting data or samples are key to the utility of the EGNP as are conditions relating to refusing to allow DMF employees to obtain that data, which protects the safety of DMF employees (discussed further on page 5). Therefore, these types of conditions are proposed to be moved into rule. However, there may be a need to modify certain conditions in the future with the variability of the non-exempt gill net fisheries. Therefore, conditions such as specific timelines or contact information would remain in the EGNP's specific permit condition form, as they may be subject to change; seasonal openings as well as gear requirements would continue to be implemented by proclamation due to the variable nature of the conditions of the fishery.

Shellfish Lease Restoration Permit (SLRP)

The SLRP, which allows the transportation of oysters or other shellfish for restoration purposes not related to human consumption from an individual's shellfish lease or franchise to restoration sites, is proposed to be relocated from proclamation to 15A NCAC 03O .0503(j), making it easier for stakeholders to find the requirements for the fishery in which they participate. Relocating this permit to rule would also continue to enable the use of shellfish from shellfish leases and franchises for restoration purposes, which is an increasingly viable commercial option. The list of specific conditions of the permit proposed in 15A NCAC 03O .0503(j) establish the need for the SLRP [(j)(1)], the activities covered by the SLRP [(j)(2)], and the requirements of the permit holder while conducting permitted activities [(j)(3)-(j)(5)]. Because the shellfish transported for restoration projects are sold, the requirements would apply to the production of the source shellfish lease or franchise and need to be properly accounted for through the Trip Ticket program [(j)(3)]. The requirement of an annual report of shellfish transported through a SLRP would enable the Trip Ticket program to continue to verify and separate the shellfish sold for restoration from the remaining shellfish from shellfish leases and franchises sold for human consumption [(j)(4)]. The requirement of calling the DMF prior to using the permit would enable the DMF to conduct any federal or state required tracking or supervision of the transport of shellfish to a closed area [(j)(5)]. Relocating the permit requirements in rule would have no impact on holders of the permit as the application process, permit conditions, and reporting requirements would not change; all DMF permits are issued at zero cost.

Shellfish Relocation Permit (SRP)

The SRP, which allows Coastal Area Management Act (CAMA) permitted development projects to transport shellfish from an area where they would otherwise be destroyed to an approved receiving site, is proposed to be relocated from proclamation to 15A NCAC 03O .0503(k), making it easier for stakeholders to find the requirements for the fishery in which they participate. Relocating this permit to rule would allow this activity to continue to occur. The proposed list of specific conditions of the permit establishes the need for the SRP (15A NCAC 03O .0503(k)(1) and the factors that are considered prior to the issuance of the SRP [(k)(2)]. The need for the permit is consistent with recent amendments to 15A NCAC 03K .0101(a) by only allowing the transport of shellfish that would be destroyed by maintenance dredging, construction, or other development activities through the SRP [(k)(1)]. To receive an SRP, a qualifying development activity must first receive a CAMA permit for the development and must then be evaluated by the DMF to qualify as a transfer that can be properly supervised by DMF employees [(k)(2)]. This evaluation would be conducted by a Fisheries Resource Specialist in coordination with Division of Coastal Management representatives. Relocating the permit requirements in rule would have no impact on holders of the permit as the application process, permit conditions, and reporting requirements would not change; all DMF permits are issued at zero cost.

The demand for the Estuarine Flounder Dealer Permit, Estuarine Gill Net Permit, Shellfish Lease Restoration Permit, and Shellfish Relocation Permit is no longer variable. Codifying these permits into permanent rules, along with minor technical amendments, will enhance consistency and clarity, making it easier for the regulated community and DMF to access applicable requirements.

Relocating a Permit Condition from Proclamation to Rule (data collection and harassment)

(15A NCAC 03O .0502)

Amendments are proposed to 15A NCAC 03O .0502 to clarify and align the rule with recent amendments to Rule 15A NCAC 03I .0113. Both of these rules apply to all permits issued by the Fisheries Director under Chapter 113, Subchapter IV of the General Statutes (e.g., fishing). The amendments to 03I .0113 made it unlawful for persons engaged in regulated fishing activity to refuse to allow DMF employees to obtain data for the conservation of marine and estuarine resources or for the protection of public health related to public health programs that fall under the authority of the MFC (e.g., shellfish sanitation). Additional amendments provided the types of data that may be collected. The amendments support the importance of participation by persons engaged in regulated fishing activity in DMF data collection and provide a safer working environment for DMF employees. The rule amendments became effective March 24, 2025. The approved fiscal analysis for the amendments to 03I .0113 can be found [here](https://www.osbm.nc.gov/documents/files/DEQ_2023-04-06/open): https://www.osbm.nc.gov/documents/files/DEQ_2023-04-06/open.

Amendments to 15A NCAC 03O .0502 propose relocating an existing permit condition from proclamation to rule by referencing 15A NCAC 03I .0113, which sets requirements for licensees and individuals engaged in regulated fishing activities. This approach mirrors four other MFC rules (15A NCAC 03O .0101, .0109, .0112, .0301). These changes aim to enhance consistency

across MFC rules and improve clarity for regulated stakeholders. This enhanced consistency and clarity could result in incremental improvements in compliance by the regulated community which could result in enhanced safety for DMF employees. There could be negligible time costs to persons participating in regulated fishing activity in the form of time spent interacting with DMF employees participating in the data collection processes.

Adding Email as an Additional Means to Satisfy Call-In Requirements

(15A NCAC 03O .0503)

Scientific and Educational Activity Permit (SEAP) and Weekend Trawling for Live Shrimp Permit (WTLS)

DMF proposes to add email as an additional means to satisfy reporting requirements of two permits: the SEAP, which allows for the collection of regulated fisheries resources for scientific and educational use by educational institutions, scientific institutions, and nongovernmental conservation organizations; and the WTLS, which permits and identifies fishermen taking live shrimp for bait with trawls from areas open to the harvest of shrimp with trawls from Friday 9:00 p.m. through Saturday 12:00 p.m. (noon). The specific permit conditions in existing MFC rule for both the SEAP and the WTLS require permittees to call the DMF communications center to report use of the permit and specify activities and location. Informing Marine Patrol of the activity through DMF communications can save valuable time and effort used to respond to permitted activity. Currently, calling the DMF communications center by phone is the only method listed in 15A NCAC 03O .0503(g) and (i) for satisfying the requirement to report activity for the permits. Since the SEAP and WTLS permits were established in rule, the amount of communication via email between permittees and the DMF has increased.

Adding email as a method to satisfy the requirement to report permit activity to the DMF would provide several benefits, including making it easier for regulated stakeholders to forward required information to the DMF and improving the tracking of activity of permit holders by the DMF. Currently, call in reports are processed by the communications center and then a report is provided to the Fisheries Management section which is logged by staff. An email system will provide a more direct mode of reporting and will eliminate an internal process between the communications center and Fisheries Management staff. The addition of email as a mechanism to report permit use is expected to result in small unquantifiable benefits for permit holders and DMF by making the reporting process more efficient.

Broadening the Definition of "Educational Institution"

(15A NCAC 03I .0101, 03O .0503)

Scientific and Educational Activity Permit (SEAP) and Coastal Recreational Fishing License (CRFL) Exemption Permit

Proposed amendments expand the definition of "educational institution" to add a reference to the statutorily defined phrase "public school unit" (N.C.G.S. § 115C-5(7a)), which includes charter schools and elementary through high schools, and add private schools and organizations whose mission includes education. These changes more closely align with the original purpose of the SEAP and CRFL Exemption Permit and would clarify whether these educational entities can be issued a SEAP or CRFL Exemption Permit. The SEAP allows for the collection of regulated fisheries resources for scientific and educational use by educational institutions, scientific institutions, and nongovernmental conservation organizations. The CRFL Exemption Permit allows individuals and organizations serving certain groups (e.g., individuals with physical/mental limitations, disadvantaged youth, etc.) the ability to conduct recreational fishing events without each participant obtaining a CRFL.

Minor proposed amendments to 15A NCAC 03O .0503(d)(2)(C) and (i)(3) point to the expanded definition of "educational institution" in 15A NCAC 03I .0101(1)(b). MFC Rule 15A NCAC 03I .0101(1)(b) currently defines "educational institution" but does not include broad enough language to include elementary through high schools, nor organizations whose mission includes education, many of which apply for the SEAP or CRFL Exemption Permit and would otherwise be approved. These updated definitions will align rule definitions with DMF policy.

During the SEAP application process, the applicant, the applicant's affiliation(s), and the proposed activities are reviewed by DMF employees before the permit is issued or denied. This process ensures the applicant and entity have the proper credentials to hold a SEAP and the proposed activity is evaluated before a SEAP is issued.

During the CRFL Exemption Permit application process, the purpose of the organized fishing event to be held in coastal or joint fishing waters is reviewed by DMF employees to ensure the event is consistent with the conservation objectives of the MFC. Those objectives include when individuals receive instruction on recreational fishing techniques and conservation practices from employees of state or federal marine or estuarine resource management agencies or instructors affiliated with educational institutions, so broadening the definition of "educational institution" in 15A NCAC 03I .0101(1)(b) further clarifies the conservation objectives of the MFC in the issuance of these permits. With the expanded definition of "educational institution", text in 15A NCAC 03O .0503(d)(2) is proposed to be deleted, as it is unnecessary.

Effective June 1, 2022, an amendment was made to 15A NCAC 03I .0101(1)(e) to add a new definition for "nongovernmental conservation organization" pursuant to Session Law 2015-241, Section 14.10A for the issuance of SEAPs. An amendment is proposed to the history note of this rule to add a reference to the authorizing law.

Adding Links to Webpages for Supporting Information

(15A NCAC 03O .0501, .0503)

As technology develops, more agencies and businesses are using websites to inform the public more quickly and feasibly. Not only are websites informative, but they allow the user to find the most up-to-date information on an easily accessible platform from any device with internet

capabilities. In an effort to provide the best customer service, a link to a webpage is proposed to be added to 15A NCAC 03O .0501(p) to guide the public to a location on the DMF website that displays which DMF offices issue particular permits, because not all DMF offices issue all types of permits. For many permits, the webpage would also provide access for the public to print their own permit applications rather than having to come into a DMF office to physically obtain one.

A link to a separate webpage is proposed to be added to 15A NCAC 03O .0503(e)(6)(C) to guide the public to a location on the DMF website that displays which DMF offices provide striped bass tags, which is a requirement for the holder of a Striped Bass Dealer Permit. A tag must be obtained from the DMF and affixed to each striped bass in order to track the fish in the markets. The rule states tags are available at DMF offices, but currently only the DMF Elizabeth City and Manteo offices issue tags. Having a webpage that displays which DMF offices issue tags would accommodate changes in DMF infrastructure over time and provide better customer service.

This inclusion of a website in the rule for permit information allows for more efficient stakeholder access to updates to permit information. The proposed amendments will improve access to permit information which is consistent with the Department of Environmental Quality's Permitting Transformation Program. This is a department-wide initiative to update and improve the permit process and provide better access to permit information, which benefits permitted entities, the public, and DMF through that clarity.

Notarizing Initial Permit General Conditions Form Instead of Permit Application

(15A NCAC 03O .0501)

Amendments are proposed to eliminate the duplicative requirement for notarization of permit applications. Amendments are proposed to 15A NCAC 03O .0501(a)(1) and (i) to make these changes and additional clarifications. Current Paragraph (m) of this rule is also proposed to occur earlier in the rule as Paragraph (j), to put in sequence related requirements.

Under the current requirements, new permit applicants are required to have their signatures notarized on multiple forms including the general conditions form plus any additional permit-specific forms. Under the proposed amendments, a new permit applicant would only be required to have their signature notarized on the general conditions form, which is required at initial issuance for any permit. The existing requirements put an unnecessary burden and cost on the regulated public without a commensurate benefit. Reducing the number of forms that require notarization will save the public time and/or notary fee costs without sacrificing the benefits associated with verifying the permittee's identity during initial permit issuance. Further, this notarized general conditions form remains on file with the DMF, and after the rule is amended, it will no longer be necessary to have additional permit forms notarized in the future.

As of the 2023-2024 license and permit season, all current permittees have a notarized general conditions form on file with the DMF. As such, they would not benefit from the proposed rule amendment; notarized signatures on annual permit renewals are already not required under the current rule.

The potential benefits of this rule change are highest in the near term for new permittees obtaining their initial permit by mail (versus in person). Under the existing rule, new permittees submit two notarized forms, at a minimum, with their initial application (one general conditions form plus at least one permit-specific form). Under the proposed rule, these permittees would be required to have just one form notarized (the general conditions form). Under this scenario, the rule change would save new permittees between \$0-\$10 (one form x \$0 to \$10 per notarization). The amount saved would vary depending on how many permits the new permittee was applying for and how much their notary of choice charges per notarization.

In product year 2025, there were 51 permit holders that did not have a history of holding a permit that applied for one. Applications for product year 2025 opened on April 15th, 2024, became effective July 1, 2024, and will expire June 30th, 2025. For the 2025 product year, new permittees submitted an average of 1.1 permit applications per new applicant. Assuming this participation rate remains steady, the proposed rule amendments could result in total annual savings for the regulated public ranging from \$0 to \$561 (51 applicants x 1.1 applications per applicant x \$10 notary fee per application). This is likely an overestimate of savings, however, as recent trends suggest declining participation rates plus the majority of permit holders apply in person. Of the 51 new permit holders, approximately three applied by mail. New permittees obtaining their initial permit in person at a DMF office would not realize a cost savings from this particular proposed rule change since DMF license agents provide notary services for free. The proposed amendments to the notary requirements for permits will not jeopardize the ability for the DMF to verify the permittee's identity.

Repealing the Horseshoe Crab Biomedical Use Permit

(15A NCAC 03O .0503)

Horseshoe Crab Biomedical Use Permit

The Horseshoe Crab Biomedical Use Permit, which allows the use of horseshoe crabs taken from North Carolina joint or coastal fishing waters for biomedical purposes, is proposed to be deleted from 15A NCAC 03O .0503(f). The [Atlantic States Marine Fisheries Commission](#) (ASMFC) manages horseshoe crab populations along the Atlantic coast, and its management plans balance allowances for bait harvesting and biomedical uses with regulations to ensure sustainability. Individual states, under the umbrella of the ASMFC's management plans, implement regulations for horseshoe crab harvesting, including daily trip limits, annual quotas, and restrictions on the use of horseshoe crabs for biomedical purposes. States can choose whether or not to allow the taking of horseshoe crabs for biomedical use through a permit. Horseshoe crab blood is used in the production of Limulus Amoebocyte Lysate (LAL) which is used for testing the safety of vaccines, injectable drugs, and medical devices. The ASMFC Interstate Fishery Management Plan for Horseshoe Crab encourages biomedical harvesters to provide the horseshoe crabs to the bait industry and count those crabs towards the bait harvest annual quota. Since its introduction in North Carolina in 2000, there has only been one Horseshoe Crab Biomedical Use Permit issued under which sale of LAL occurred. That permit has since expired, and there is no indication that interest will increase in North Carolina. As

such, this proposed action is not expected to have an impact on the industry in North Carolina. It is important to note that eliminating the permit will not disallow use of horseshoe crabs for biomedical purposes in North Carolina, but access to horseshoe crabs would be limited to the annual open commercial bait harvest season (January–May) and counted towards the annual bait quota for compliance with the Interstate Fishery Management Plan.

When an N.C. Horseshoe Crab Biomedical Use Permit was issued, it was time intensive for DMF employees to collect the information from permit holders to meet the Interstate Fishery Management Plan compliance requirements, regardless of whether LAL was sold. The only impact on DMF employees from the elimination of the permit would be to notify the ASMFC of North Carolina's change of status via its annual compliance report.

Clarifying and Conforming Rule Amendments

(15A NCAC 03I .0101)

(15A NCAC 03I .0114)

(15A NCAC 03O .0501)

Conforming Amendment

A conforming amendment is proposed to 15A NCAC 03I .0114(a)(1) to clarify a fish dealer is required to submit a trip ticket for fish not sold, consistent with "transaction" in N.C.G.S. § 113-168.2 and requirements of N.C.G.S. § 113-170.3 and 15A NCAC 03I .0123 for commercial harvest reporting requirements. This clarification is being proposed while the recordkeeping requirements rule is being amended for permit-related needs (see Dealer Permits for Quota Monitoring).

Definition of "Permittee"

A new definition of "permittee" is proposed in 15A NCAC 03I .0101(5)(l) to address the ubiquitous use of "permittee" and "permit holder" throughout MFC rules. In numerous MFC rules, including rules proposed in this analysis, there is a mix of the usage of "permit holder" and "permittee". Rule 15A NCAC 03I .0101(5)(b) defines "designee" as 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. Rule 15A NCAC 03I .0101(5)(e) defines "holder" as a person who has been lawfully issued in the person's name a license, permit, franchise, lease, or assignment. However, there is no definition for "permittee".

The definition of "permittee" mimics the definition of "licensee", except that the definition of "permittee" is not limited to persons who hold a "valid" permit. A "permittee" can include a person who holds a "valid" permit and, in some instances, a person who no longer holds a permit. This is consistent with how the rule is already implemented in that certain permit conditions continue to be enforceable even after a permit is no longer "valid." For example, a person has 30 days to remove gear associated with the permit after revocation or expiration of a

permit. In this scenario, the person is still considered a “permittee” for purposes of enforcing the conditions of the expired permit.

Minor Grammatical Amendments

Two minor grammatical amendments are proposed to 15A NCAC 03O .0501(d) and (e) for consistency throughout MFC rules. The current text reads "a permittee and his designees" and the proposed text reads "a permittee and a permittee's designees". These amendments will make the usage of pronouns in this rule consistent with other MFC rules. There are no impacts associated with these changes other than from improved rule clarity.

1 **Appendix: Proposed Rules**

2
3 15A NCAC 03I .0101 is proposed for amendment as follows:

4
5 **SUBCHAPTER 03I – GENERAL RULES**

6
7 **SECTION .0100 – GENERAL RULES**

8
9 **15A NCAC 03I .0101 DEFINITIONS**

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

11 (1) enforcement and management terms:

12 (a) "Commercial quota" means total quantity of fish allocated for harvest by commercial
13 fishing operations.

14 (b) "Educational institution" means a college, university, or community college accredited by
15 an accrediting agency recognized by the U.S. Department of Education; an Environmental
16 Education Center certified by the N.C. Department of Environmental Quality Office of
17 Environmental Education and Public Affairs; ~~or a zoo or aquarium certified by the~~
18 Association of Zoos and Aquariums-Aquariums; or a public school unit, private school, or
19 an organization whose mission includes education.

20 (c) "Internal Coastal Waters" or "Internal Waters" means all Coastal Fishing Waters except
21 the Atlantic Ocean.

22 (d) length of finfish:

23 (i) "Curved fork length" means a length determined by measuring along a line tracing
24 the contour of the body from the tip of the upper jaw to the middle of the fork in
25 the caudal (tail) fin.

26 (ii) "Fork length" means a length determined by measuring along a straight line the
27 distance from the tip of the snout with the mouth closed to the middle of the fork
28 in the caudal (tail) fin, except that fork length for billfish is measured from the tip
29 of the lower jaw to the middle of the fork of the caudal (tail) fin.

30 (iii) "Pectoral fin curved fork length" means a length of a beheaded fish from the dorsal
31 insertion of the pectoral fin to the fork of the tail measured along the contour of
32 the body in a line that runs along the top of the pectoral fin and the top of the
33 caudal keel.

34 (iv) "Total length" means a length determined by measuring along a straight line the
35 distance from the tip of the snout with the mouth closed to the tip of the
36 compressed caudal (tail) fin.

- 1 (e) "Nongovernmental conservation organization" means an organization whose primary
2 mission is the conservation of natural resources. For the purpose of this Chapter, a
3 determination of the organization's primary mission is based upon the Division of Marine
4 Fisheries' consideration of the organization's publicly stated purpose and activities.
- 5 (f) "Polluted" means any shellfish growing waters as defined in 15A NCAC 18A .0901:
- 6 (i) that are contaminated with fecal material, pathogenic microorganisms, poisonous
7 or deleterious substances, or marine biotoxins that render the consumption of
8 shellfish from those growing waters hazardous. This includes poisonous or
9 deleterious substances as listed in the latest approved edition of the National
10 Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan
11 Shellfish, Section IV: Guidance Documents, Chapter II: Growing Areas; Action
12 Levels, Tolerances and Guidance Levels for Poisonous or Deleterious Substances
13 in Seafood, which is incorporated by reference, including subsequent amendments
14 and editions. A copy of the reference material can be found at
15 [https://www.fda.gov/food/federalstate-food-programs/national-shellfish-](https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp)
16 [sanitation-program-nssp](https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp), at no cost;
- 17 (ii) that have been determined through a sanitary survey as defined in 15A NCAC
18 18A .0901 to be adjacent to a sewage treatment plant outfall or other point source
19 outfall that may contaminate shellfish and cause a food safety hazard as defined
20 in 15A NCAC 18A .0301;
- 21 (iii) that have been determined through a sanitary survey as defined in 15A NCAC
22 18A .0901 to be in or adjacent to a marina;
- 23 (iv) that have been determined through a sanitary survey as defined in 15A NCAC
24 18A .0901 to be impacted by other potential sources of pollution that render the
25 consumption of shellfish from those growing waters hazardous, such as a
26 wastewater treatment facility that does not contaminate a shellfish area when it is
27 operating normally but will contaminate a shellfish area and shellfish in that area
28 when a malfunction occurs; or
- 29 (v) where the Division is unable to complete the monitoring necessary to determine
30 the presence of contamination or potential pollution sources.
- 31 (g) "Recreational possession limit" means restrictions on size, quantity, season, time period,
32 area, means, and methods where take or possession is for a recreational purpose.
- 33 (h) "Recreational quota" means total quantity of fish allocated for harvest for a recreational
34 purpose.
- 35 (i) "Regular closed oyster season" means March 31 through October 15, unless amended by
36 the Fisheries Director through proclamation authority.
- 37 (j) "Scientific institution" means one of the following entities:

- (i) an educational institution as defined in this Item;
- (ii) a state or federal agency charged with the management of marine or estuarine resources; or
- (iii) a professional organization or secondary school working under the direction of, or in compliance with mandates from, the entities listed in Sub-items (j)(i) and (ii) of this Item.
- (2) fishing activities:
- (a) "Aquaculture operation" means an operation that produces artificially propagated stocks of marine or estuarine 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, utilizing technology not found in the natural environment.
- (b) "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" 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) "Depurate" or "deputation" has the same meaning as defined in the 2019 revision of the NSSP Guide for the Control of Molluscan Shellfish, Section I: Purpose and Definitions. This definition is incorporated by reference, not including subsequent amendments and editions. A copy of the reference material can be found at

1 [https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-](https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp)
2 [program-nssp](https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp), at no cost.

3 (e) "Long haul operation" means fishing a seine towed between two vessels.

4 (f) "Peeler crab" means a blue crab that has a soft shell developing under a hard shell and
5 having a white, pink, or red-line or rim on the outer edge of the back fin or flipper.

6 (g) "Possess" means any actual or constructive holding whether under claim of ownership or
7 not.

8 (h) "Recreational purpose" means a fishing activity that is not a commercial fishing operation
9 as defined in G.S. 113-168.

10 (i) "Swipe net operations" means fishing a seine towed by one vessel.

11 (j) "Transport" means to ship, carry, or cause to be carried or moved by public or private
12 carrier by land, sea, or air.

13 (k) "Use" means to employ, set, operate, or permit to be operated or employed.

14 (3) gear:

15 (a) "Bunt net" means the last encircling net of a long haul or swipe net operation constructed
16 of small mesh webbing. The bunt net is used to form a pen or pound from which the catch
17 is dipped or bailed.

18 (b) "Channel net" means a net used to take shrimp that is anchored or attached to the bottom
19 at both ends or with one end anchored or attached to the bottom and the other end attached
20 to a vessel.

21 (c) "Commercial fishing equipment or gear" means all fishing equipment used in Coastal
22 Fishing Waters except:

23 (i) cast nets;

24 (ii) collapsible crab traps, a trap used for taking crabs with the largest open dimension
25 no larger than 18 inches and that by design is collapsed at all times when in the
26 water, except when it is being retrieved from or lowered to the bottom;

27 (iii) dip nets or scoops having a handle not more than eight feet in length and a hoop
28 or frame to which the net is attached not exceeding 60 inches along the perimeter;

29 (iv) gigs or other pointed implements that are propelled by hand, whether or not the
30 implement remains in the hand;

31 (v) hand operated rakes no more than 12 inches wide and weighing no more than six
32 pounds and hand operated tongs;

33 (vi) hook and line, and bait and line equipment other than multiple-hook or multiple-
34 bait trotline;

35 (vii) landing nets used to assist in taking fish when the initial and primary method of
36 taking is by the use of hook and line;

37 (viii) minnow traps when no more than two are in use;

- (ix) seines less than 30 feet in length;
- (x) 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" 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" 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" 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" 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" 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" 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" 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" 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" 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" 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" 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" 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 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" 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" means the estuarine and marine areas that support juvenile and adult populations of fish species throughout their entire life cycle, including early growth and development, as well as forage species utilized in the food chain. Fish habitats in all Coastal Fishing Waters, as determined through marine and estuarine survey sampling, are:
- (a) "Anadromous fish nursery areas" means those areas in the riverine and estuarine systems utilized by post-larval and later juvenile anadromous fish.
- (b) "Anadromous fish spawning areas" 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" means:
- (i) fire corals and hydrocorals (Class Hydrozoa);
 - (ii) 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" means a formation, regardless of size or shape, formed of shell and live oysters of varying density.
- (e) "Live rock" 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 (Phylum Porifera);
 - (v) hard and soft corals, sea anemones (Phylum Cnidaria), including fire corals (Class Hydrozoa), and Gorgonians, whip corals, sea pansies, anemones, Solengastrea (Class Anthozoa);
 - (vi) Bryozoans (Phylum Bryozoa);
 - (vii) tube worms (Phylum Annelida), fan worms (Sabellidae), feather duster and Christmas treeworms (Serpulidae), and sand castle worms (Sabellaridae);
 - (viii) mussel banks (Phylum Mollusca: Gastropoda); and
 - (ix) acorn barnacles (Arthropoda: Crustacea: Semibalanus sp.).
- (f) "Nursery areas" 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" 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" 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" 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

1 of above-ground leaves, below-ground rhizomes, or reproductive structures
2 associated with one or more SAV species and include the sediment within these
3 areas; or

- 4 (ii) have been vegetated by one or more of the species identified in Sub-item (4)(i)(i)
5 of this Rule within the past 10 annual growing seasons and that meet the average
6 physical requirements of water depth, which is six feet or less, average light
7 availability, which is a secchi depth of one foot or more, and limited wave
8 exposure that characterize the environment suitable for growth of SAV. The past
9 presence of SAV may be demonstrated by aerial photography, SAV survey, map,
10 or other documentation. An extension of the past 10 annual growing seasons
11 criteria may be considered when average environmental conditions are altered by
12 drought, rainfall, or storm force winds.

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

19 (5) licenses, permits, shellfish leases and franchises, and record keeping:

- 20 (a) "Assignment" means temporary transferal to another person of privileges under a license
21 for which assignment is permitted. The person assigning the license delegates the privileges
22 permitted under the license to be exercised by the assignee, but retains the power to revoke
23 the assignment at any time, and is still the responsible party for the license.
- 24 (b) "Designee" means any person who is under the direct control of the permittee or who is
25 employed by or under contract to the permittee for the purposes authorized by the permit.
- 26 (c) "For hire vessel", as defined by G.S. 113-174, means when the vessel is fishing in State
27 waters or when the vessel originates from or returns to a North Carolina port.
- 28 (d) "Franchise" means a franchise recognized pursuant to G.S. 113-206.
- 29 (e) "Holder" means a person who has been lawfully issued in the person's name a license,
30 permit, franchise, lease, or assignment.
- 31 (f) "Land" means:
- 32 (i) for commercial fishing operations, when fish reach the shore or a structure
33 connected to the shore.
- 34 (ii) for purposes of trip tickets, when fish reach a licensed seafood dealer, or where
35 the fisherman is the dealer, when fish reach the shore or a structure connected to
36 the shore.

- (iii) for recreational fishing operations, when fish are retained in possession by the fisherman.
- (g) "Licensee" means any person holding a valid license from the ~~Department~~ Division to take or deal in ~~marine fisheries resources, resources governed by any provision of Subchapter 113 of the North Carolina General Statutes under the authority of the Marine Fisheries Commission or any rule adopted by the Marine Fisheries Commission pursuant to Subchapter 113,~~ except as otherwise defined in 15A NCAC 03O .0109.
- (h) "Logbook" means paper forms provided by the Division and electronic data files generated from software or web-based utilities provided by the Division for the reporting of fisheries statistics by persons engaged in commercial or recreational fishing or for-hire operators.
- (i) "Master" means captain or operator of a vessel or one who commands and has control, authority, or power over a vessel.
- (j) "New fish dealer" means any fish dealer ~~making application applying~~ 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.
- (k) "Office of the Division" means physical locations of the Division conducting license and permit transactions in Wilmington, Morehead City, Washington, and Roanoke Island, 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.
- (l) "Permittee" means any person who has been issued a permit from the Division to take or deal in resources governed by any provision of Subchapter 113 of the North Carolina General Statutes under the authority of the Marine Fisheries Commission or any rule adopted by the Marine Fisheries Commission pursuant to Subchapter 113.
- (m) "Quota monitoring log" means paper forms provided by the Division and electronic data files generated from software or web-based utilities provided by the Division for the reporting of fisheries statistics by licensed fish dealers who hold dealer permits for monitoring fisheries under a quota or allocation.
- ~~(n)~~ (n) "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.
- ~~(m)~~ (o) "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.

(p) "Transaction" means an act of doing business such that fish are sold, offered for sale, exchanged, bartered, distributed, or landed.

~~(e)~~(q) "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.

(p)(r) "Trip ticket" means paper forms provided by the Division and electronic data files generated from software or web-based utilities 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; 143B289.52; S.L. 2015-241, s. 14.10A; 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. June 1, 2022; Amended Eff. March 24, ~~2025~~-2025; Amended Eff. (Pending legislative review of 15A NCAC 03O .0503).

1 15A NCAC 03I .0114 is proposed for amendment as follows:

2
3 **15A NCAC 03I .0114 RECORDKEEPING REQUIREMENTS**

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

5 (1) to record false information on the North Carolina trip ticket or to fail to legibly record all items on
6 the North Carolina trip ticket for each ~~transaction~~ transaction, including for fish harvested but not
7 sold pursuant to 15A NCAC 03I .0123, and submit the trip ticket in accordance with G.S. 113-168.2,
8 including the following:

9 (A) fisherman's name;

10 (B) fisherman's North Carolina license number;

11 (C) dealer's North Carolina license number;

12 (D) start date of trip, including year, month, and day;

13 (E) unload date of trip, including year, month, and day;

14 (F) North Carolina Division of Marine Fisheries Vessel Identification Number or indicate if
15 no vessel was used;

16 (G) crew size;

17 (H) gear fished;

18 (I) waterbody fished;

19 (J) species landed;

20 (K) quantity of each species landed in pounds, numbers of fish, bushels, or other units of
21 measurement;

22 (L) disposition of species;

23 (M) transaction number;

24 (N) number of crab pots or peeler pots fished, if applicable;

25 (O) state where species was taken if other than North Carolina;

26 (P) lease number, if applicable;

27 (Q) bottom type, if applicable; and

28 (R) shellfish harvest area, if applicable.

29 (2) to fail to provide to the Division a Trip Ticket Submittal/Transaction form indicating the number of
30 transactions that occurred during the previous month;

31 (3) to fail to make paper copies or electronic copies of trip tickets or N.C. Trip Ticket Program Dock
32 Tickets available at the dealer location for inspection by Marine Fisheries inspectors;

33 (4) to fail to submit trip tickets to the Division via electronic file transfer if that dealer reported an annual
34 average of greater than 50,000 pounds of finfish for the previous three calendar years. Dealers
35 subject to the electronic reporting requirement shall be notified by the Division via certified mail
36 and within 120 days of receipt shall:

37 (A) initiate electronic file transfer of trip tickets; and

- (B) continue to report by electronic file transfer until the dealer no longer holds a fish dealer license with finfish or consolidated categories;
- (5) to fail to use software or web-based utilities authorized by the Division when reporting electronically; and
- (6) to fail to keep all trip tickets and all supporting documentation for each transaction including receipts, checks, bills of lading, records, electronic files, and accounts for a period of not less than three ~~years-years~~; and
- (7) to fail to submit quota monitoring logs in accordance with 15A NCAC 03O .0503 if the licensed fish dealer holds a dealer permit for monitoring fisheries under a quota or allocation; and
- (8) to fail to keep all quota monitoring logs including electronic files for a period of not less than three years.
- (b) It 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 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; and
- (2) 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 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 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.
- (d) It 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 recordkeeping requirements in G.S. 113-168.2(i).
- (e) It shall be unlawful to offer for sale fish purchased from a licensed fish dealer without having ready at hand for inspection by Marine Fisheries inspectors or other agents of the Fisheries Director written documentation of purchase showing 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.

1 (f) It shall be unlawful for a holder of a Fish Dealer License to have fish in possession at a licensed location without
2 written documentation from a licensed fish dealer or a completed North Carolina trip ticket to show the quantity and
3 origin of all fish.
4

5 *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-
6 182; 143B-289.52;
7 Eff. March 1, 1994;
8 Recodified from 15A NCAC 3I .0014 Eff. December 17, 1996;
9 Temporary Amendment Eff. July 1, 1999;
10 Amended Eff. June 1, 2013; August 1, 2000;
11 Readopted Eff. March 15, ~~2023~~, 2023;
12 Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).
13

1 15A NCAC 03O .0501 is proposed for amendment as follows:

2
3 **SECTION .0500 - PERMITS**
4

5 **15A NCAC 03O .0501 PROCEDURES AND REQUIREMENTS TO OBTAIN PERMITS**

6 (a) To obtain a Division of Marine Fisheries permit, an applicant, responsible party, or person holding a power of
7 attorney shall provide the following information:

- 8 (1) the full name, physical address, mailing address, date of birth, and signature of the applicant on the
9 application and, if the applicant is not appearing before a license agent or the designated Division
10 of Marine Fisheries ~~contact, the applicant's signature on the application shall be notarized; contact;~~
11 (2) a current picture identification of the applicant, responsible party, or person holding a power of
12 attorney, acceptable forms of which shall include driver's license, North Carolina Identification card
13 issued by the North Carolina Division of Motor Vehicles, military identification card, resident alien
14 card (green card), or passport or, if applying by mail, a copy thereof;
15 (3) for permits that require a list of designees, the full names and dates of birth of the designees of the
16 applicant who will be acting pursuant to the requested permit;
17 (4) certification that the applicant and his or her designees do not have four or more ~~marine or estuarine~~
18 ~~resource~~ convictions for violation of any provision of Subchapter 113 of the North Carolina General
19 Statutes under the authority of the Marine Fisheries Commission or any rule adopted by the Marine
20 Fisheries Commission pursuant to Subchapter 113 during the previous three years; and
21 (5) for permit applications from business entities:
22 (A) the business name;
23 (B) the type of business entity: corporation, "educational institution" as defined in 15A NCAC
24 03I .0101, limited liability company (LLC), partnership, or sole proprietorship;
25 (C) the name, address, and phone number of responsible party and other identifying
26 information required by this Subchapter or rules related to a specific permit;
27 (D) for a corporation applying for a permit in a corporate name, the current articles of
28 incorporation and a current list of corporate officers;
29 (E) for a partnership that is established by a written partnership agreement, a current copy of
30 such agreement shall be provided when applying for a permit; and
31 (F) for business entities other than corporations, copies of current assumed name statements if
32 filed with the Register of Deeds office for the corresponding county and copies of current
33 business privilege tax certificates, if applicable.

34 (b) A permittee shall hold a valid:

- 35 (1) Recreational Commercial Gear License, Standard Commercial Fishing License, or Retired Standard
36 Commercial Fishing License to hold an Estuarine Gill Net Permit.
37 ~~(+)(2)~~ Standard or Retired Standard Commercial Fishing License ~~in order~~ to hold:

- 1 (A) an Atlantic Ocean Striped Bass Commercial Gear Permit;
2 (B) a Permit for Weekend Trawling for Live Shrimp; or
3 (C) a Pound Net Set Permit.

4 The master designated on the single vessel corporation Standard Commercial Fishing License is the
5 individual required to hold the Permit for Weekend Trawling for Live Shrimp.

- 6 ~~(2)~~(3) Fish Dealer License in the proper category ~~in order to~~ hold dealer permits for monitoring fisheries
7 under a quota or allocation for that category.

8 (c) An individual who is assigned a valid Standard Commercial Fishing License with applicable endorsements shall
9 be eligible to hold any permit that requires a Standard Commercial Fishing License except a Pound Net Set Permit.

10 (d) If mechanical methods to take shellfish are used, a permittee and ~~his~~ a permittee's designees shall hold a valid
11 Standard or Retired Standard Commercial Fishing License with a Shellfish Endorsement ~~in order~~ for a permittee to
12 hold a:

- 13 (1) Depuration Permit;
14 (2) Permit to Transplant Oysters from Seed Oyster Management Areas; or
15 (3) Permit to Use Mechanical Methods for Shellfish on Shellfish Leases or Franchises, except as
16 provided in G.S. 113-169.2.

17 (e) If mechanical methods to take shellfish are not used, a permittee and ~~his~~ a permittee's designees shall hold a valid
18 Standard or Retired Standard Commercial Fishing License with a Shellfish Endorsement or a Shellfish License ~~in~~
19 ~~order~~ for a permittee to hold a:

- 20 (1) Depuration Permit; or
21 (2) Permit to Transplant Oysters from Seed Oyster Management Areas.

22 (f) Aquaculture Operation Permit and Aquaculture Collection Permit:

- 23 (1) A permittee shall hold a valid Aquaculture Operation Permit issued by the Fisheries Director to hold
24 an Aquaculture Collection Permit.
25 (2) The permittee or designees shall hold appropriate licenses from the Division of Marine Fisheries for
26 the species harvested and the gear used under the Aquaculture Collection Permit.

27 (g) Atlantic Ocean Striped Bass Commercial Gear Permit:

- 28 (1) An applicant for an Atlantic Ocean Striped Bass Commercial Gear Permit shall declare one of the
29 following types of gear for an initial permit and at intervals of three consecutive license years
30 thereafter:

- 31 (A) a gill net;
32 (B) a trawl net; or
33 (C) a beach seine.

34 For the purpose of this Rule, a "beach seine" shall mean a swipe net constructed of multi-filament
35 or multi-fiber webbing fished from the ocean beach that is deployed from a vessel launched from
36 the ocean beach where the fishing operation takes place. Gear declarations shall be binding on the
37 permittee for three consecutive license years without regard to subsequent annual permit issuance.

(2) A person is not eligible for more than one Atlantic Ocean Striped Bass Commercial Gear Permit regardless of the number of Standard Commercial Fishing Licenses, Retired Standard Commercial Fishing Licenses, or assignments held by that person.

(h) Applications submitted without complete and required information shall not be processed until all required information has been submitted. Incomplete applications shall be returned within two business days to the applicant with the deficiency in the application noted.

(i) A permit shall be issued only after the application is deemed complete and the applicant certifies his or her agreement to abide by the permit general and specific conditions established under 15A NCAC 03J .0501 and .0505, 03K .0103 and .0107, Rule .0211 of this Subchapter, and Rules .0502 and .0503 of this Section, as applicable to the requested permit. The permittee's signature on the initial permit general conditions form shall be notarized. In the case of a person holding more than one permit, the permittee's signature on the permit general conditions form shall be notarized for the initial permit issued but shall not be required for subsequent permits.

(j) For permit renewals, the permittee's signature on the specific condition form shall certify all information is true and accurate. Notarized signatures on renewal permits shall not be required.

~~(j)(k)~~ In determining whether to issue, modify, or renew a permit, the Fisheries Director or his or her agent shall evaluate the following factors:

- (1) potential threats to public health or marine and estuarine resources regulated by the Marine Fisheries Commission;
- (2) whether the permit application meets the requirements for the permit; and
- (3) whether the applicant has a history of eight or more violations of any provision of Subchapter 113 of the North Carolina General Statutes under the authority of the Marine Fisheries Commission or any rule adopted by the Marine Fisheries Commission pursuant to Subchapter 113 within 10 years.

~~(k)(l)~~ The Division of Marine Fisheries shall notify the applicant in writing of the denial or modification of any permit application and the reasons therefor. The applicant may submit further information or reasons why the permit application should not be denied or modified.

~~(k)(m)~~ Permits are valid from the date of issuance through the expiration date printed on the permit. Unless otherwise established by rule, the Fisheries Director may establish the issuance timeframe for specific types and categories of permits based on season, calendar year, or other period based upon the nature of the activity permitted, the duration of the activity, compliance with federal or State fishery management plans or implementing rules, conflicts with other fisheries or gear usage, or seasons for the species involved. The expiration date shall be specified on the permit.

~~(m)~~ For permit renewals, the permittee's signature on the application shall certify all information is true and accurate. Notarized signatures on renewal applications shall not be required.

(n) It shall be unlawful for a permit 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.

(o) It shall be unlawful for a permit holder to fail to notify the Division of Marine Fisheries of a change of designee prior to use of the permit by that designee.

(p) Permit applications shall be available at ~~all the Division of Marine Fisheries offices. Fisheries;~~ a list of permits and the location where each permit application is available is on the Division's website at <https://deq.nc.gov/dmf-permit-info>.

History Note: Authority G.S. 113-134; 113-169.1; 113-169.2; 113-169.3; 113-182; 113-210; 143B-289.52; Temporary Adoption Eff. September 1, 2000; May 1, 2000; Eff. April 1, 2001; Temporary Amendment Eff. October 1, 2001; Amended Eff. May 1, 2017; May 1, 2015; April 1, 2011; April 1, 2009; July 1, 2008; December 1, 2007; September 1, 2005; April 1, 2003; August 1, 2002; Readopted Eff. April 1, 2019; Amended Eff. March 24, ~~2025, 2025~~; Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).

1 15A NCAC 03O .0502 is proposed for amendment as follows:

3 **15A NCAC 03O .0502 GENERAL PERMIT CONDITIONS**

4 (a) It shall be unlawful to violate any permit condition.

5 (b) The following conditions shall apply to all permits issued by the Fisheries Director:

6 (1) it shall be unlawful to:

7 (A) operate under the permit except in areas, at times, and under conditions specified on the
8 permit.

9 (B) operate under a permit without having the permit or copy thereof in possession of the
10 permittee or the permittee's designees at all times of operation and the permit or copy
11 thereof shall be ready at hand for inspection, except for a Pound Net Set Permit.

12 (C) operate under a permit without having a current picture identification in possession and
13 ready at hand for inspection.

14 (D) refuse to allow inspection and sampling of a permitted activity by an agent of the Division
15 of Marine Fisheries.

16 (E) fail to provide complete and accurate information requested by the Division in connection
17 with the permitted activity.

18 (F) provide false information in the application for initial issuance, renewal, or transfer of a
19 permit.

20 (G) hold a permit issued by the Fisheries Director if not eligible to hold any license required as
21 a condition for that permit as stated in Rule .0501 of this Section.

22 (H) fail to provide reports within the timeframe required by the specific permit conditions.

23 (I) fail to keep such records and accounts as required by the rules in this Chapter for
24 determination of conservation policy, equitable and efficient administration and
25 enforcement, or promotion of commercial or recreational fisheries.

26 (J) assign or transfer permits issued by the Fisheries Director, except for a Pound Net Set
27 Permit as authorized by 15A NCAC 03J .0504.

28 (K) fail to participate in and provide accurate information for data collection in accordance
29 with 15A NCAC 03I .0113 and for survey programs administered by the Division.

30 (2) the Fisheries Director or the Fisheries Director's agent may, by conditions of the permit, impose on
31 a commercial fishing operation and for recreational purposes any of the following restrictions for
32 the permitted purposes:

33 (A) specify time;

34 (B) specify area;

35 (C) specify means and methods;

36 (D) specify record keeping and reporting requirements;

37 (E) specify season;

- 1 (F) specify species;
2 (G) specify size;
3 (H) specify quantity;
4 (I) specify disposition of resources;
5 (J) specify marking requirements; and
6 (K) specify harvest conditions.
7 (3) unless specifically stated as a condition on the permit, all statutes, rules, and proclamations shall
8 apply to the permittee and the permittee's designees.
9

10 *History Note: Authority G.S. 113-134; 113-169.1; 113-170.2; 113-170.3; 113-182; 113-210; 143B-289.52;*
11 *Temporary Adoption Eff. May 1, 2000;*
12 *Eff. April 1, 2001;*
13 *Amended Eff. April 1, 2009; September 1, 2005;*
14 *Readopted Eff. March 15, ~~2023~~, 2023;*
15 *Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).*

15A NCAC 03O .0503 is proposed for amendment as follows:

15A NCAC 03O .0503 PERMIT CONDITIONS; SPECIFIC

(a) Aquaculture Operation Permit and Aquaculture Collection Permit:

- (1) It shall be unlawful to conduct aquaculture operations using marine and estuarine resources without first securing an Aquaculture Operation Permit from the Fisheries Director.
- (2) It shall be unlawful:
 - (A) to take marine and estuarine resources from Coastal Fishing Waters for aquaculture purposes without first obtaining an Aquaculture Collection Permit from the Fisheries Director;
 - (B) to sell or use for any purpose not related to North Carolina aquaculture marine and estuarine resources taken pursuant to an Aquaculture Collection Permit; or
 - (C) to fail to submit to the Fisheries Director an annual report, due on December 1 of each year on the form provided by the Division of Marine Fisheries, stating the amount and disposition of marine and estuarine resources collected under authority of an Aquaculture Collection Permit.
- (3) Aquaculture Operation Permits and Aquaculture Collection Permits shall be issued or renewed on a calendar year basis.
- (4) It shall be unlawful to fail to provide the Division with a listing of all designees acting pursuant to an Aquaculture Collection Permit at the time of application.

(b) Atlantic Ocean Striped Bass Commercial Gear Permit:

- (1) It shall be unlawful to take striped bass from the Atlantic Ocean in a commercial fishing operation without first obtaining an Atlantic Ocean Striped Bass Commercial Gear Permit.
- (2) It shall be unlawful to obtain more than one Atlantic Ocean Striped Bass Commercial Gear Permit during a license year, regardless of the number of Standard Commercial Fishing licenses, Retired Standard Commercial Fishing licenses, or assignments.

(c) Blue Crab Shedding Permit: It shall be unlawful to possess more than 50 blue crabs in a shedding operation without first obtaining a Blue Crab Shedding Permit from the ~~Division of Marine Fisheries~~Division.

(d) Coastal Recreational Fishing License Exemption Permit:

- (1) It shall be unlawful for the responsible party seeking exemption from recreational fishing license requirements for eligible individuals to conduct an organized fishing event held in Joint or Coastal Fishing Waters without first obtaining a Coastal Recreational Fishing License Exemption Permit.
- (2) The Coastal Recreational Fishing License Exemption Permit shall only be issued for recreational fishing activity conducted solely for the participation and benefit of one of the following groups of eligible individuals:
 - (A) individuals with physical or mental impairment;

- (B) members of the United States Armed Forces and their dependents, upon presentation of a valid military identification card;
- (C) individuals receiving instruction on recreational fishing techniques and conservation practices from employees of state or federal marine or estuarine resource management agencies or instructors affiliated with an educational institution; institution as defined in 15A NCAC 03I .0101(1); and
- (D) disadvantaged youths as set forth in 42 U.S. Code 12511.

~~For the purpose of this Paragraph, educational institutions include high schools and other secondary educational institutions.~~

- (3) The Coastal Recreational Fishing License Exemption Permit shall be valid for the date, time, and physical location of the organized fishing event for which the exemption is granted and the duration of the permit shall not exceed one year from the date of issuance.
- (4) The Coastal Recreational Fishing License Exemption Permit shall only be issued if all of the following, in addition to the information required in Rule .0501 of this Section, is submitted to the Fisheries Director, in writing, at least 30 days prior to the event:
 - (A) the name, date, time, and physical location of the event;
 - (B) documentation that substantiates local, state, or federal involvement in the organized fishing event, if applicable;
 - (C) the cost or requirements, if any, for an individual to participate in the event; and
 - (D) an estimate of the number of participants.

(e) Requirements for Dealer-dealer permits for monitoring fisheries under a quota or allocation:

- (1) All species-specific permits listed in Subparagraphs (e)(2) through (e)(6) of this Rule are subject to the requirements of this Paragraph. During the commercial season commercial harvest of a fishery opened by proclamation or rule for the fishery for which a dealer permit for monitoring fisheries under a quota or allocation shall be issued, it shall be unlawful for a fish dealer issued such permit to fail to:
 - (A) fax or send via electronic mail submit by electronic means, including electronic mail, fax, or text message, by noon daily, on forms provided by the Division of Marine Fisheries, daily in quota monitoring logs, the previous day's landings for the permitted fishery to the Division. The form shall include the dealer's name, dealer's license number, date the fish were landed, permittee's or designee's signature, date the permittee or designee signed the form, and species-specific information as listed in Parts (e)(2)(A), (e)(3)(A), (e)(4)(A), and (e)(5)(A) of this Rule. If the dealer submits their trip tickets by electronic means, then the dealer shall submit their quota monitoring logs by electronic means. If the dealer is unable to submit by electronic means the required information, the permittee shall call in the previous day's landings to the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-515-5500. Landings for Fridays or Saturdays shall be submitted no later

~~than noon on the following Monday. If the dealer is unable to fax or electronically mail the required information, the permittee shall call in the previous day's landings to the Division;~~Monday:

- (B) submit the required form set forth in Part (e)(1)(A) of this Rule to the Division upon request or no later than five days after the close of the ~~season~~harvest in a commercial fishing operation for the fishery permitted;
 - (C) maintain ~~faxes and other~~ related documentation in accordance with 15A NCAC 03I .0114;
 - (D) contact the Division daily, regardless of whether a transaction for the fishery for which a dealer is permitted occurred; and
 - (E) record the permanent dealer identification number on the bill of lading or receipt for each transaction or shipment from the permitted fishery.
- (2) Atlantic Ocean Flounder Dealer Permit:
- (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the previous day's landings of Atlantic Ocean flounder shall include the permit number, number of vessels used for harvest, and ~~the~~ pounds harvested.
 - (B) It shall be unlawful for a fish dealer to allow vessels holding a valid License to Land Flounder from the Atlantic Ocean to land more than 100 pounds of flounder from a single transaction at their licensed location during the open season without first obtaining an Atlantic Ocean Flounder Dealer Permit. The licensed location shall be specified on the Atlantic Ocean Flounder Dealer Permit and only one location per permit shall be allowed.
 - (C) It shall be unlawful for a fish dealer to possess, buy, sell, or offer for sale more than 100 pounds of flounder from a single transaction from the Atlantic Ocean without first obtaining an Atlantic Ocean Flounder Dealer Permit.
- (3) Black Sea Bass North of Cape Hatteras Dealer Permit:
- (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the previous day's landings of black sea bass north of Cape Hatteras shall include the permit number, number of vessels used for harvest, and ~~the~~ pounds harvested.
 - (B) It shall be unlawful for a fish dealer to purchase or possess more than 100 pounds of black sea bass taken from the Atlantic Ocean north of Cape Hatteras (35° 15.0321' N) per day per commercial fishing operation during the open season unless the dealer has a Black Sea Bass North of Cape Hatteras Dealer Permit.
- (4) Estuarine Flounder Dealer Permit:
- (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the previous day's landings of estuarine flounder shall include the permit number, number of vessels used for harvest, pounds harvested, gear category, and management area.

- (B) It shall be unlawful for a fish dealer to possess, purchase, sell, or offer for sale flounder taken from estuarine waters without first obtaining an Estuarine Flounder Dealer Permit required for specific management purposes for the applicable fisheries and harvest area.

~~(4)~~(5) Spiny Dogfish Dealer Permit:

- (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the previous day's landings of spiny dogfish shall include the permit number, number of vessels used for harvest, and ~~the~~ pounds harvested.
- (B) It shall be unlawful for a fish dealer to purchase or possess more than 100 pounds of spiny dogfish per day per commercial fishing operation unless the dealer has a Spiny Dogfish Dealer Permit.

~~(5)~~(6) Striped Bass Dealer Permit:

- (A) In addition to the information required in Part (e)(1)(A) of this Rule, the form to record the previous day's landings of striped bass shall include the permit number, number of tags used by area, pounds harvested by area, and for the Atlantic Ocean, type of gear used for harvest.
- (B) It shall be unlawful for a fish dealer to possess, buy, sell, or offer for sale striped bass taken from the following areas without first obtaining a Striped Bass Dealer Permit validated for the applicable harvest area:
- (i) the Atlantic Ocean;
 - (ii) the Albemarle Sound Management Area as designated in 15A NCAC 03R .0201; or
 - (iii) the Joint and Coastal Fishing Waters of the Central/Southern Management Area as designated in 15A NCAC 03R .0201.
- (C) No permittee shall possess, buy, sell, or offer for sale striped bass taken from the harvest areas opened by proclamation without having a valid ~~Division of Marine Fisheries issued~~ Division-issued tag for the applicable area affixed through the mouth and gill cover or, in the case of striped bass imported from other states, a similar tag that is issued for striped bass in the state of origin. Division striped bass tags shall not be bought, sold, offered for sale, or transferred. Tags shall be obtained ~~at from the Division offices; Division; office~~ locations that provide tags can be found on the Division's website at <https://www.deq.nc.gov/striped-bass-commercial-harvest-tags>. The Division shall specify the quantity of tags to be issued based on historical striped bass landings. It shall be unlawful for the permittee to fail to surrender unused tags to the Division upon request.

~~(f) Horseshoe Crab Biomedical Use Permit:~~

- (1) ~~It shall be unlawful to use horseshoe crabs for biomedical purposes without first obtaining a permit.~~
- (2) ~~It shall be unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to submit an annual report on the use of horseshoe crabs to the Division of Marine Fisheries,~~

~~due on February 1 of each year. Such reports shall be filed on forms provided by the Division and shall include a monthly account of the number of crabs harvested, a statement of percent mortality up to the point of release, the harvest method, the number or percent of males and females, and the disposition of bled crabs prior to release.~~

- (3) ~~It shall be unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to comply with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab. The Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab is incorporated by reference including subsequent amendments and editions. Copies of this plan are available via the Internet from the Atlantic States Marine Fisheries Commission at <http://www.asmf.org/fisheries-management/program-overview> and at the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557, at no cost.~~

(f) Estuarine Gill Net Permit:

- (1) It shall be unlawful for an individual to deploy gill nets in Internal Waters, except for runaround, strike, drop, or drift gill nets, without possessing a valid Estuarine Gill Net Permit issued by the Division.
- (2) Estuarine Gill Net Permits shall be issued or renewed by the Division on a calendar year basis. For renewals, any changes in information or supporting documents shall be provided by the permit holder at the time of renewal.
- (3) It shall be unlawful for a permit holder:
 - (A) to violate the provisions of any rules or proclamations regarding the conditions set out in the federally issued Endangered Species Act 16 U.S.C. 1539(a)(1)(B) Incidental Take Permits, for the estuarine non-exempt gill net fisheries;
 - (B) to refuse or deny Division employees a trip aboard the vessel the permit holder is using or observation from a Division vessel to obtain data or samples in accordance with 15A NCAC 03I .0113;
 - (C) and the master and crew members of the boat, to interfere with or obstruct Division employees in the course of obtaining data or samples, which shall include refusal or failure to provide information on fishing gear parameters or to relinquish any captured sturgeon or sea turtle to Division employees;
 - (D) to avoid or mislead Division employees by providing incorrect information on fishing activity;
 - (E) to fail to provide a valid phone number at which the Estuarine Gill Net Permit holder can be reached, return phone calls, or answer text messages from the Division, or fail to notify the Division of a phone number change within 14 calendar days of such change;
 - (F) to fail to comply with all observer notification system or call-in requirements set out by permit conditions, proclamations, or rules; and

(G) to fail to report to the Division any incidental take of sea turtle or sturgeon within 24 hours.

(g) Permit for Weekend Trawling for Live Shrimp:

- (1) It shall be unlawful to take shrimp with trawls from 9:00 p.m. on Friday through 12 noon on Saturday without first obtaining a Permit for Weekend Trawling for Live Shrimp.
- (2) It shall be unlawful for a holder of a Permit for Weekend Trawling for Live Shrimp to use trawls from 12:01 p.m. on Saturday through 4:59 p.m. on Sunday.
- (3) It shall be unlawful for a permit holder during the timeframe specified in Subparagraph (g)(1) of this Rule to:
 - (A) use trawl nets to take live shrimp except from areas open to the harvest of shrimp with trawls;
 - (B) take shrimp with trawls that have a combined headrope length of greater than 40 feet in Internal Coastal Waters;
 - (C) possess more than one gallon of dead shrimp (heads on) per trip;
 - (D) fail to have a functioning live bait tank or a combination of multiple functioning live bait tanks, with aerators or circulating water, with a minimum combined tank capacity of 50 gallons; or
 - (E) fail to call or email the Division of Marine Fisheries Communications Center at ~~800-682-2632 or 252-726-7021~~ prior to each weekend use of the permit, specifying activities and location. Calls shall be directed to the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-515-5500 and emails shall be sent to the email address provided in the permit specific conditions.

(h) Pound Net Set Permit: The holder of a Pound Net Set Permit shall follow the Pound Net Set Permit conditions as set forth in 15A NCAC 03J .0505.

(i) Scientific or Educational Activity Permit:

- (1) It shall be unlawful for institutions or ~~agencies-organizations~~ seeking exemptions from license, rule, proclamation, or statutory requirements to collect, hold, culture, or exhibit for scientific or educational purposes any marine or estuarine species without first obtaining a Scientific or Educational Activity Permit.
- (2) The Scientific or Educational Activity Permit shall only be issued for collection methods and possession allowances approved by the ~~Division of Marine Fisheries, Division.~~
- (3) The Scientific or Educational Activity Permit shall only be issued for ~~approved~~ activities conducted by or under the direction of ~~Scientific or Educational institutions-educational institutions,~~ nongovernmental conservation organizations, or scientific institutions as defined in 15A NCAC 03I ~~.0101-.0101(1)~~ and approved by the Division.
- (4) It shall be unlawful for the responsible party issued a Scientific or Educational Activity Permit to fail to submit an annual report on collections and, if authorized, sales to the Division, due on December 1 of each year, unless otherwise specified on the permit. The reports shall be filed on

forms provided by the Division. Scientific or Educational Activity permits shall be issued on a calendar year basis.

- (5) It shall be unlawful to sell marine or estuarine species taken under a Scientific or Educational Activity Permit without:
 - (A) the required license for such sale;
 - (B) an authorization stated on the permit for such sale; and
 - (C) providing the information required by 15A NCAC 03I .0114 if the sale is to a licensed fish dealer.
- (6) It shall be unlawful to fail to provide the Division with a list of all designees acting under a Scientific or Educational Activity Permit at the time of application.
- (7) The permittee or designees utilizing the permit shall call or email the Division of Marine Fisheries Communications Center at ~~800-682-2632 or 252-726-7021~~ not later than 24 hours prior to use of the permit, specifying activities and location. Calls shall be directed to the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-515-5500 and emails shall be sent to the email address provided in the permit specific conditions.

(j) Shellfish Lease Restoration Permit:

- (1) It shall be unlawful to transport shellfish cultivated on a shellfish lease or franchise to a restoration site without first obtaining a Shellfish Lease Restoration Permit.
- (2) The Shellfish Lease Restoration Permit shall only be issued for approved activities associated with a shellfish lease or franchise.
- (3) It shall be unlawful to harvest shellfish under a Shellfish Lease Restoration Permit without being recorded on a trip ticket through a certified shellfish dealer as set forth in 15A NCAC 03I .0114.
- (4) It shall be unlawful for the permittee or permit designee to fail to maintain a record of all shellfish transported for restoration purposes and to fail to submit the record annually, unless otherwise specified on the permit.
- (5) The permittee or designees utilizing the permit shall call the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-515-5500 no later than 24 hours prior to use of the permit, specifying activities, location, and product size.

(k) Shellfish Relocation Permit:

- (1) It shall be unlawful, without first obtaining a Shellfish Relocation Permit, to relocate shellfish from an area designated by the Fisheries Director as a site where shellfish would otherwise be destroyed due to maintenance dredging, construction, or other development activities.
- (2) The Shellfish Relocation Permit shall be issued by the Fisheries Director only as part of a Coastal Area Management Act Permit issued in accordance with G.S. 113A-118 and G.S. 113-229 for development projects based on the status of shellfish resources in the development area, availability of Division employees to supervise the relocation activity, and if the Division has verified that there is no other avoidance or minimization measure that can be incorporated.

~~(j)~~(1) Under Dock Oyster Culture Permit:

- (1) It shall be unlawful to cultivate oysters in containers under docks for personal consumption without first obtaining an Under Dock Oyster Culture Permit.
- (2) An Under Dock Oyster Culture Permit shall be issued only in accordance with provisions set forth in G.S. 113-210(c).
- (3) The applicant shall complete and submit an examination, with a minimum of 70 percent correct answers, based on an educational package provided by the Division of Marine Fisheries pursuant to G.S. 113-210(j), demonstrating the applicant's knowledge of:
 - (A) the application process;
 - (B) permit criteria;
 - (C) basic oyster biology and culture techniques;
 - (D) shellfish harvest area closures due to pollution;
 - (E) safe handling practices;
 - (F) permit conditions; and
 - (G) permit revocation criteria.
- (4) Action by an Under Dock Oyster Culture Permit holder to encroach on or usurp the legal rights of the public to access public trust resources in Coastal Fishing Waters shall result in permit revocation.

*History Note: Authority G.S. 113-134; 113-169.1; 113-169.2; 113-169.3; 113-182; 113-210; 143B-289.52;
Temporary Adoption Eff. September 1, 2000; August 1, 2000; May 1, 2000;
Eff. April 1, 2001;
Amended Eff. May 1, 2017; May 1, 2015; April 1, 2014; April 1, 2009; July 1, 2008; January 1,
2008; September 1, 2005; October 1, 2004; August 1, 2004; August 1, 2002;
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Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).*