

## TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Marine Fisheries Commission intends to adopt the rules cited as 15A NCAC 03K .0108-.0109, .0208-.0209; 03L .0209; 03M .0518-.0520; 03R .0116-.0117, amend the rules cited as 15A NCAC 03I .0101; 03J .0105, .0202; 03K .0101-.0103, .0105-.0107, .0201, .0304; 03M .0102, .0201, .0204, .0301, .0501, .0504, .0506, .0511-.0513; 03O .0201, .0203, .0210 and repeal the rules cited as 15A NCAC 03M .0401-.0404, .0505, .0514.*

**Proposed Effective Date:** September 1, 2008

**Public Hearing:**

**Date:** May 12, 2008

**Time:** 7:00 p.m.

**Location:** Roanoke Island Festival Park, One Festival Park, Manteo, NC 27954

**Date:** May 13, 2008

**Time:** 7:00 p.m.

**Location:** Pitt Community College, Reddick Bldg., Room 242, 1986 Pitt Tech Road, Winterville, NC 28590

**Date:** May 14, 2008

**Time:** 7:00 p.m.

**Location:** DENR Wilmington Regional Office, 127 Cardinal Drive Extension, Wilmington, NC 28405

**Date:** May 15, 2008

**Time:** 7:00 p.m.

**Location:** Center for Marine Sciences and Technology, 303 College Circle, Room 306, Morehead City, NC 28557

**Reason for Proposed Action:**

**15A NCAC 03I .0101:** *This rule is proposed for amendment as recommended by the NC Oyster and Hard Clam Fishery Management Plans. The amendments will change the closure date for oyster season to March 31 to reflect current management practices, establish a definition for seed oyster management areas used in NC General Statutes and Marine Fisheries Commission Rule, and include shellfish gear typically used for recreational purposes in the list of gears that are an exception to the commercial fishing equipment or gear definition. A proposed amendment will also add a definition for curved fork length in support of a new tuna rule proposed for adoption.*

**15A NCAC 03J .0105:** *Improvements are needed for the protection of bycatch species taken in menhaden fishing operations and for the enforcement of menhaden fishery rules. Marine Fisheries Commission Rules 15A NCAC 03M .0401-.0404 are proposed for repeal and information from these rules will be incorporated into 15A NCAC 03J .0105, for clarity. Additional amendments to this rule will add gizzard shad and pinfish to the list of species that may be taken by purse seines.*

**15A NCAC 03J .0202:** *This rule was amended several times in the 1990s to address the use of fly nets south of Cape Hatteras. During a revision, the rule was unintentionally changed and has been incorrect since the early 2000s. The proposed amendment to this rule will restore the original intent by allowing 50 percent of the catch in the shrimp and crab trawl fisheries to be finfish plus allow an additional 300 pounds of kingfish south of Bogue Inlet.*

**15A NCAC 03K .0101:** *This rule is proposed for amendment as recommended by the NC Oyster and Hard Clam Fishery Management Plans. The proposed change will remove the portion of the rule concerning tagging of containers of shellfish so it can be codified in a separate rule, for clarity.*

**15A NCAC 03K .0102:** *This rule is proposed for amendment to correct a cross-reference to a related rule that is listed incorrectly.*

**15A NCAC 03K .0103:** *This rule is proposed for amendment as recommended by the NC Oyster and Hard Clam Fishery Management Plans. The proposed change will remove the portion of the rule concerning seed oyster management areas so it can be codified in a separate rule, for clarity.*

**15A NCAC 03K .0105:** *This rule is proposed for amendment as recommended by the NC Oyster and Hard Clam Fishery Management Plans. The proposed changes will move the recreational harvest rules for blue crabs to the crab section of the rule book, clarify that the Sunday exception for oyster and clam harvest is only for recreational purposes, clarify that commercial harvest of oysters and clams from shellfish leases and franchises is allowed on Sundays, and establish recreational harvest limits for other mollusks in accordance with statutory provisions.*

**15A NCAC 03K .0106:** *This rule is proposed for amendment as recommended by the NC Oyster and Hard Clam Fishery Management Plans. The proposed change will clarify that oysters and clams taken from shellfish leases and franchises are exempt from the Sunday unloading prohibition.*

**15A NCAC 03K .0107:** *This rule is proposed for amendment to correct a cross-reference to a related rule that is listed incorrectly.*

**15A NCAC 03K .0108:** *This rule is proposed for adoption as recommended by the NC Oyster and Hard Clam Fishery Management Plans. This rule will only allow mechanical gear for shellfish harvesting in areas where it is already allowed for oysters, clams, scallops and rangia clams. It is currently not clear where mechanical harvest gear can be used for species other than oysters, clams, scallops and oysters.*

**15A NCAC 03K .0109:** *This rule is proposed for adoption as recommended by the NC Oyster and Hard Clam Fishery Management Plans. This rule will establish requirements for the tagging of shellfish containers as a separate rule from the prohibited activities rule, and extend that requirement to shellfish from out-of-state sources. The proposed changes will also align the definition of commercial harvest of shellfish with that of other species in G.S. 113-168.*

**15A NCAC 03K .0201:** *This rule is proposed for amendment as recommended by the NC Oyster and Hard Clam Fishery Management Plans. Amendments to this rule will change the closure date for oyster season to March 31 to reflect current management practices. Proposed changes will also clarify the Fisheries Director's authority to set the oyster season between specified dates and for recreational or commercial harvest.*

**15A NCAC 03K .0208:** *This rule is proposed for adoption as recommended by the NC Oyster and Hard Clam Fishery Management Plans. This rule will separate seed oyster management areas from shellfish management areas and place seed oyster rules in the oyster section of the rulebook. There will not be any changes in the provisions of the rules.*

**15A NCAC 03K .0209:** *This rule is proposed for adoption as recommended by the NC Oyster and Hard Clam Fishery Management Plans. This rule will create designated oyster sanctuaries where no bottom disturbing gear or oyster or clam harvest is allowed.*

**15A NCAC 03K .0304:** *This rule is proposed for amendment to correct a cross-reference to a related rule that is listed incorrectly.*

**15A NCAC 03L .0209:** *This rule is proposed for adoption as recommended by the NC Oyster and Hard Clam Fishery Management Plans. This rule will properly locate the recreational harvest rules for blue crabs in the crab section of the North Carolina Fisheries Rules for Coastal Waters rule book.*

**15A NCAC 03M .0102:** *Improvements are needed for the protection of bycatch species taken in menhaden fishing operations and for the enforcement of menhaden fishery rules. Proposed amendments to this rule include the removal of reference to trash or scrap fish, clarification that finfish must meet minimum size and possession limits, clarification that up to 5,000 pounds may be sold to bait dealers or dehydrating plants, and clarification that purse seine species are exempt from this 5,000 pound quantity requirement.*

**15A NCAC 03M .0201:** *This rule is proposed for amendment as recommended by the NC Interjurisdictional Fishery Management Plan. The proposed change will delete existing text that confers proclamation authority to the Fisheries Director, in order to consistently use the broader authority provided by the proposed amended Marine Fisheries Rule 15A NCAC 03M .0512. This will avoid conflict with species rules that may have different parameters for the utilization of proclamation authority.*

**15A NCAC 03M .0204:** *This rule is proposed for amendment as recommended by the NC Interjurisdictional Fishery Management Plan. The proposed change will delete existing text that confers proclamation authority to the Fisheries Director, in order to consistently use the broader authority provided by the proposed amended Marine Fisheries Rule 15A NCAC 03M .0512. This will avoid conflict with species rules that may have different parameters for the utilization of proclamation authority.*

**15A NCAC 03M .0301:** *This rule is proposed for amendment as recommended by the NC Interjurisdictional Fishery Management Plan. The proposed change will delete existing text that confers proclamation authority to the Fisheries Director, in order to consistently use the broader authority provided by the proposed amended Marine Fisheries Rule 15A NCAC 03M .0512. This will avoid conflict with species rules that may have different parameters for the utilization of proclamation authority.*

**15A NCAC 03M .0401-.0404:** *Improvements are needed for the protection of bycatch species taken in menhaden fishing operations and for the enforcement of menhaden fishery rules. These rules are proposed for repeal and information from these rules will be incorporated into Marine Fisheries Commission Rule 15A NCAC 03J .0105, Purse Seines Prohibited, for clarity.*

**15A NCAC 03M .0501:** *This rule is proposed for amendment as recommended by the NC Interjurisdictional Fishery Management Plan. The proposed change will delete existing text that confers proclamation authority to the Fisheries Director, in order to consistently use the broader authority provided by the proposed amended Marine Fisheries Rule 15A NCAC 03M .0512. This will avoid conflict with species rules that may have different parameters for the utilization of proclamation authority.*

**15A NCAC 03M .0504:** *This rule is proposed for amendment as recommended by the NC Interjurisdictional Fishery Management Plan. The proposed change will delete existing text that confers proclamation authority to the Fisheries Director, in order to consistently use the broader authority provided by the proposed amended Marine Fisheries Rule 15A NCAC 03M .0512. This will avoid conflict with species rules that may have different parameters for the utilization of proclamation authority.*

**15A NCAC 03M .0505:** *As recommended by the NC Interjurisdictional Fishery Management Plan, this rule is proposed for repeal because all existing text conferring proclamation authority to the Fisheries Director should be deleted in order to consistently use the broader authority provided by the proposed amended Marine Fisheries Rule 15A NCAC 03M .0512. This will avoid conflict with species rules that may have different parameters for the utilization of proclamation authority.*

**15A NCAC 03M .0506:** *This rule is proposed for amendment as recommended by the NC Interjurisdictional Fishery Management Plan. The proposed change will delete existing text that confers proclamation authority to the Fisheries Director, in order to consistently use the broader authority provided by the proposed amended Marine Fisheries Rule 15A NCAC 03M .0512. This will avoid conflict with species rules that may have different parameters for the utilization of proclamation authority.*

**15A NCAC 03M .0511:** *This rule is proposed for amendment as recommended by the NC Interjurisdictional Fishery Management Plan. The proposed change will delete existing text that confers proclamation authority to the Fisheries Director, in order to consistently use the broader authority provided by the proposed amended Marine Fisheries Rule 15A NCAC 03M .0512. This will avoid conflict with species rules that may have different parameters for the utilization of proclamation authority.*

**15A NCAC 03M .0512:** *As recommended by the NC Interjurisdictional Fishery Management Plan, amendments are proposed to this rule to broaden the types of actions that may be implemented by proclamation, and also to correct a General Statute reference.*

**15A NCAC 03M .0513:** *This rule is proposed for amendment as recommended by the NC Interjurisdictional Fishery Management Plan. A proposed change will delete existing text that confers proclamation authority to the Fisheries Director, in order to consistently use the broader authority provided by the proposed amended Marine Fisheries Rule 15A NCAC 03M .0512. This will avoid conflict with species rules that may have different parameters for the utilization of proclamation authority. Proposed amendments will also move rules for shad to a separate rule in the North Carolina Fisheries Rules for Coastal Waters rule book.*

**15A NCAC 03M .0514:** *As recommended by the NC Interjurisdictional Fishery Management Plan, this rule is proposed for repeal because all existing text conferring proclamation authority to the Fisheries Director should be deleted in order to consistently use the broader authority provided by the proposed amended Marine Fisheries Rule 15A NCAC 03M .0512. This will avoid conflict with species rules that may have different parameters for the utilization of proclamation authority.*

**15A NCAC 03M .0518:** *This rule is proposed for adoption to give proclamation authority for the management of kingfish stocks to the Fisheries Director, as recommended by the Kingfish Fishery Management Plan. The use of proclamation authority with management triggers will provide the flexibility to initiate management actions to maintain a sustainable harvest, if necessary.*

**15A NCAC 03M .0519:** *This rule is proposed for adoption as recommended by the NC Interjurisdictional Fishery Management Plan. This rule will separate shad from river herring in the North Carolina Fisheries Rules for Coastal Waters rule book by creating a separate rule for shad. There will not be any changes in the provisions of the rules.*

**15A NCAC 03M .0520:** *In the interest of promoting effective conservation of the tuna resource, the proposed rule will add a new minimum size and creel limit for certain species of tuna that can be enforced by state marine patrol officers in state waters.*

**15A NCAC 03O .0201:** *This rule is proposed for amendment as recommended by the NC Oyster and Hard Clam Fishery Management Plans. The proposed rule amendments will change the time period for meeting shellfish production requirements to meet the term of the shellfish lease contract, remove the opportunity for applicants to justify exceeding the acreage allowed in lease application guidelines, set a maximum amount of lease acreage per application regardless of species under cultivation, and require current lease and franchise holders to meet shellfish production requirements prior to submitting applications for additional acreage. The amendments will provide for better enforcement of rules and more efficient use of public bottomlands.*

**15A NCAC 03O .0203:** *This rule is proposed for amendment as recommended by the NC Oyster and Hard Clam Fishery Management Plans. The proposed change will require the inclusion of latitude and longitude coordinates in the survey requirements for shellfish leases. This information will aid in enforcement and compliance with shellfish lease and franchise marking requirements.*

**15A NCAC 03O .0210:** *This rule is proposed for amendment as recommended by the NC Oyster and Hard Clam Fishery Management Plans. The proposed change will correct a reference modified by the amendment of 15A NCAC 03O .0201.*

**15A NCAC 03R .0116:** *This rule is proposed for adoption as recommended by the NC Oyster and Hard Clam Fishery Management Plans. This rule will identify seed oyster management areas that have already been designated pursuant to G.S. 113-203, to allow for proper management and protection of resources.*

**15A NCAC 03R .0117:** *This rule is proposed for adoption as recommended by the NC Oyster and Hard Clam Fishery Management Plans. This rule will place oyster sanctuaries currently designated under proclamation authority in rule.*

**Procedure by which a person can object to the agency on a proposed rule:** *If you have any objections to the proposed Rules, please forward a typed or handwritten letter indicating your specific reasons for your objections to the following address: Division of Marine Fisheries, Catherine Blum, P.O. Box 769, Morehead City, NC 28557*

**Comments may be submitted to:** *Catherine Blum, P.O. Box 769, Morehead City, NC 28557, phone (252)808-8013*

**Comment period ends:** *June 16, 2008*

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

**Fiscal Impact:**

- State
- Local
- Substantive ( $\geq$ \$3,000,000)
- None

**CHAPTER 03 - MARINE FISHERIES**

**SUBCHAPTER 03I - GENERAL RULES**

**SECTION .0100 – GENERAL RULES**

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

~~(a) All definitions set out in G.S. 113, Subchapter IV apply to this Chapter.~~

~~(b) The following additional terms are hereby defined:~~

(a) Enforcement and management terms:

~~(b)(41)(1)~~ (1) Commercial Quota. Total quantity of fish allocated for harvest taken by commercial fishing operations.

~~(b)(30)(2)~~ (2) Educational Institution. A college, university or community college accredited by an accrediting agency recognized by the U.S. Department of Education.

~~(b)(10)(3)~~ (3) Internal Coastal Waters or Internal Waters. All coastal fishing waters except the Atlantic Ocean.

~~(b)(17)(4)~~ (4) Length of finfish.

(A) Curved fork length is determined by measuring along a line, tracing the contour of the body from the tip of the upper jaw to the middle of the fork in the caudal (tail) fin.

~~(b)(17)(B)(B)~~ Fork length is determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the middle of the fork in the caudal (tail) fin. ~~fin, except that fork~~ ~~(b)(17)(C)~~ Fork length for billfish is measured from the tip of the lower jaw to the middle of the fork of the caudal (tail) fin.

~~(b)(17)(A)(C)~~ Total length is determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the tip of the compressed caudal (tail) fin.

~~(b)(39)(5)~~ Recreational Possession Limit. Includes restrictions on size, quantity, season, time period, area, means, and methods where take or possession is for a recreational purpose.

~~(b)(42)(6)~~ Recreational Quota. Total quantity of fish allocated for harvest taken for a recreational purpose.

~~(b)(46)(7)~~ Regular Closed Oyster Season. ~~May 15~~ March 31 through October 15, unless amended by the Fisheries Director through proclamation authority.

(8) Seed Oyster Management Area. An open harvest area that, by reason of poor growth characteristics, predation rates, overcrowding or other factors, experiences poor utilization of oyster populations for direct harvest and sale to licensed dealers and is designated by the Marine Fisheries Commission as a source of seed for public and private oyster culture.

(b) Fishing Activities:

~~(b)(19)(1)~~ Aquaculture operation. An operation that produces artificially propagated stocks of marine or estuarine resources or obtains such stocks from authorized sources for the purpose of rearing in a controlled environment. A controlled environment provides and maintains throughout the rearing process one or more of the following:

~~(b)(19)(B)(A)~~ food,

~~(b)(19)(A)(B)~~ predator protection,

~~(b)(19)(D)(C)~~ salinity, or

~~(b)(19)(E)(D)~~ temperature controls utilizing technology not found in the natural environment. controls, or

~~(b)(19)(C)(E)~~ water circulation,

utilizing technology not found in the natural environment.

~~(b)(40)(2)~~ Attended. Being in a vessel, in the water or on the shore immediately adjacent to the gear and immediately available to work the gear and within 100 yards of any gear in use by that person at all times. Attended does not include being in a building or structure.

~~(b)(50)(3)~~ Blue Crab Shedding. 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:

~~(b)(50)(B)(A)~~ food,

~~(b)(50)(A)(B)~~ predator protection,

~~(b)(50)(D)(C)~~ salinity, or

~~(b)(50)(E)(D)~~ temperature controls utilizing technology not found in the natural environment. controls, or

~~(b)(50)(C)(E)~~ 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.

~~(b)(15)(4)~~ Depuration. Purification or the removal of adulteration from live oysters, clams, and mussels by any natural or artificially controlled means.

~~(b)(31)(5)~~ Long Haul Operations. ~~A Fishing~~ a seine towed between two boats.

~~(b)(16)(6)~~ Peeler Crab. A blue crab that has a soft shell developing under a hard shell and having a definite white, pink, or red-line or rim on the outer edge of the back fin or flipper.

~~(b)(4)(7)~~ Possess. Any actual or constructive holding whether under claim of ownership or not.

~~(b)(38)(8)~~ Recreational Purpose. A fishing activity that is not a commercial fishing operation as defined in G.S. 113-168.

~~(b)(27)(9)~~ Shellfish marketing from leases and franchises. The harvest of oysters, clams, scallops, mussels, from privately held shellfish bottoms and lawful sale of those shellfish to the public at large or to a licensed shellfish dealer.

~~(b)(28)(10)~~ Shellfish planting effort on leases and franchises. The process of obtaining authorized cultch materials, seed shellfish, and polluted shellfish stocks and the placement of those materials on privately held shellfish bottoms for increased shellfish production.

~~(b)(26)(11)~~ Shellfish production on leases and franchises:

~~(b)(26)(A)(A)~~ The culture of oysters, clams, scallops, and mussels, on shellfish leases and franchises from a sublegal harvest size to a marketable size.

~~(b)(26)(B)(B)~~ The transplanting (relay) of oysters, clams, scallops and mussels from designated areas closed due to pollution to shellfish leases and franchises in open waters and the natural cleansing of those shellfish.

~~(b)(32)(12)~~ Swipe Net Operations. ~~A Fishing~~ a seine towed by one boat.

~~(b)(5)(13)~~ Transport. Ship, carry, or cause to be carried or moved by public or private carrier by land, sea, or air.

~~(b)(6)(14)~~ Use. Employ, set, operate, or permit to be operated or employed.

(c) Gear:

~~(b)(33)(1)~~ Bunt Net. The last encircling net of a long haul or swipe net operation constructed of small mesh webbing. The bunt net is used to form a pen or pound from which the catch is dipped or bailed.

~~(b)(11)(2)~~ Channel Net. A net used to take shrimp which is anchored or attached to the bottom at both ends or with one end anchored or attached to the bottom and the other end attached to a boat.

~~(b)(1)(3)~~ Commercial Fishing Equipment or Gear. All fishing equipment used in coastal fishing waters except:

~~(b)(1)(G)(A)~~ Cast Nets;

- ~~(b)(1)(B)(B)~~ Collapsible crab traps, a trap used for taking crabs with the largest open dimension no larger than 18 inches and that by design is collapsed at all times when in the water, except when it is being retrieved from or lowered to the bottom;
- ~~(b)(1)(D)(C)~~ ~~A dip net~~ Dip nets or scoops having a handle not more than eight feet in length and a hoop or frame to which the net is attached not exceeding 60 inches along the perimeter;
- ~~(b)(1)(H)(D)~~ Gigs or other pointed implements which are propelled by hand, whether or not the implement remains in the hand; ~~and~~
- (E) Hand operated rakes or hand operated tongs no more than 12 inches wide and weighing no more than six pounds, and taking shellfish without the use of harvest tools;
- ~~(b)(1)(E)(F)~~ Hook-and-line and bait-and-line equipment other than multiple-hook or multiple-bait trotline;
- ~~(b)(1)(F)(G)~~ ~~A landing net~~ Landing nets used to assist in taking fish when the initial and primary method of taking is by the use of hook and line;
- ~~(b)(1)(I)(H)~~ ~~Up to two minnow traps.~~ Minnow traps when no more than two are in use;
- ~~(b)(1)(A)(I)~~ Seines less than 30 feet in length;
- ~~(b)(1)(C)(J)~~ Spears, Hawaiian slings or similar devices, which propel pointed implements by mechanical means, including elastic tubing or bands, pressurized gas or similar ~~means;~~ means.
- ~~(b)(12)(4)~~ Dredge. 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.
- ~~(b)(2)(5)~~ Fixed or stationary net. A net anchored or staked to the bottom, or some structure attached to the bottom, at both ends of the net.
- ~~(b)(51)(6)~~ Fyke Net. 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).
- ~~(b)(8)(7)~~ Gill Net. A net set vertically in the water to capture fish by entanglement by the gills in its mesh as a result of net design, construction, mesh size, webbing diameter or method in which it is used.
- ~~(b)(52)(8)~~ Hoop Net. 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).
- ~~(b)(13)(9)~~ Mechanical methods for clamming. Includes 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.
- ~~(b)(14)(10)~~ Mechanical methods for oystering. Includes dredges, patent tongs, stick rakes and other rakes when towed by engine power and any other method that utilizes mechanical means to harvest oysters.
- ~~(b)(3)(11)~~ Mesh Length. The diagonal distance from the inside of one knot to the outside of the other knot, when the net is stretched hand-tight.
- ~~(b)(29)(12)~~ Pound Net Set. 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 lead(s), enclosures, and holding pen are not conical, nor are they supported by hoops or frames.
- ~~(b)(7)(13)~~ Purse Gill Nets. 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.
- ~~(b)(9)(14)~~ Seine. 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 size, webbing diameter, or method in which it is used.

(d) Habitat:

- ~~(b)(25)(1)~~ Coral:
- ~~(b)(25)(A)(A)~~ Fire corals and hydrocorals (Class Hydrozoa);
- ~~(b)(25)(B)(B)~~ Stony corals and black corals (Class Anthozoa, Subclass Scleractinia);
- ~~(b)(25)(C)(C)~~ ~~Octocorals; Gorgonian corals (Class Anthozoa, Subclass Octocorallia);~~ (Class Anthozoa, Subclass Octocorallia), which include sea fans (Gorgonia sp.), sea whips (Leptogorgia sp. and Lophogorgia sp.), and sea pansies (Renilla sp.).
- (i) ~~Sea fans (Gorgonia sp.);~~
- (ii) ~~Sea whips (Leptogorgia sp. and Lophogorgia sp.);~~
- (iii) ~~Sea pansies (Renilla sp.);~~
- ~~(b)(20)(2)~~ Fish habitat areas. The fragile estuarine and marine areas that support juvenile and adult populations of fish species, as well as forage species utilized in the food chain. Fish habitats as used in this definition, are vital for portions of the entire life cycle, including the early growth and development of fish species. Fish habitats in all coastal fishing waters, as determined through marine and estuarine survey sampling, include:
- ~~(b)(20)(D)(A)~~ Anadromous fish nursery areas are those areas in the riverine and estuarine systems utilized by post-larval and later juvenile anadromous fish.
- ~~(b)(20)(C)(B)~~ Anadromous fish spawning areas are those areas where evidence of spawning of anadromous fish has been documented by direct observation of spawning, capture of running ripe females, or capture of eggs or early larvae.

~~(b)(20)(A)(C)~~ Beds of submerged aquatic vegetation are those habitats in public trust and estuarine waters vegetated with one or more species of submerged vegetation such as eelgrass (*Zostera marina*), shoalgrass (*Halodule wrightii*) and widgeongrass (*Ruppia maritima*). These vegetation beds occur in both subtidal and intertidal zones and may occur in isolated patches or cover extensive areas. In either case, the bed is defined by the presence of above-ground leaves or the below-ground rhizomes and propagules together with the sediment on which the plants grow. In defining beds of submerged aquatic vegetation, the Marine Fisheries Commission recognizes the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et. seq.) and does not intend the submerged aquatic vegetation definition, or rules 15A NCAC 03K .0304, .0404 and 03I .0101, to apply to or conflict with the non-development control activities authorized by that Act.

~~(b)(20)(E)(D)~~ Nursery areas are those areas in which 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 which have migrated from an upstream primary nursery area to the secondary nursery area located in the middle portion of the estuarine system.

~~(b)(20)(B)(E)~~ Shellfish producing habitats are those areas in which shellfish, such as clams, oysters, scallops, mussels, and whelks, whether historically or currently, 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.

~~(b)(20)(F)(F)~~ Strategic Habitat Areas are specific locations of individual fish habitats or systems of habitats that have been identified to provide exceptional habitat functions or that are particularly at risk due to imminent threats, vulnerability, or rarity.

~~(b)(21)(3)~~ Intertidal Oyster Bed. A formation, regardless of size or shape, formed of shell and live oysters of varying density.

~~(b)(24)(4)~~ Live rock. Living marine organisms or an assemblage thereof attached to a hard substrate including dead coral or rock (excluding mollusk shells). ~~For example, such living~~ Living marine organisms associated with hard bottoms, banks, reefs, and live rock may include:

~~(A)~~ Animals:

~~(i)~~ Sponges (Phylum Porifera);

~~(ii)~~ Hard and Soft Corals, Sea Anemones (Phylum Cnidaria):

~~(I)~~ Fire corals (Class Hydrozoa);

~~(II)~~ Gorgonians, whip corals, sea pansies, anemones, Solenastrea (Class Anthozoa);

~~(iii)~~ Bryozoans (Phylum Bryozoa);

~~(iv)~~ Tube Worms (Phylum Annelida):

~~(I)~~ Fan worms (Sabellidae);

~~(II)~~ Feather duster and Christmas tree worms (Serpulidae);

~~(III)~~ Sand castle worms (Sabellaridae);

~~(v)~~ Mussel banks (Phylum Mollusca: Gastropoda);

~~(vi)~~ Colonial barnacles (Arthropoda: Crustacea: Megabalanus sp.);

~~(B)~~ Plants:

~~(i)~~ Coralline algae (Division Rhodophyta);

~~(ii)~~ Acetabularia sp., Udotea sp., Halimeda sp., Caulerpa sp. (Division Chlorophyta);

~~(iii)~~ Sargassum sp., Dictyopteris sp., Zonaria sp. (Division Phaeophyta).

~~(A)~~ Coralline algae (Division Rhodophyta);

~~(B)~~ Acetabularia sp., mermaid's fan and cups (Udotea sp.), watercress (Halimeda sp.), green feather, green grape algae (Caulerpa sp.) (Division Chlorophyta);

~~(C)~~ Sargassum sp., Dictyopteris sp., Zonaria sp. (Division Phaeophyta);

~~(D)~~ Sponges (Phylum Porifera);

~~(E)~~ Hard and soft corals, sea anemones (Phylum Cnidaria), including fire corals (Class Hydrozoa), and Gorgonians, whip corals, sea pansies, anemones, Solengastrea (Class Anthozoa);

~~(F)~~ Bryozoans (Phylum Bryozoa);

~~(G)~~ Tube worms (Phylum Annelida), fan worms (Sabellidae); feather duster and Christmas tree-worms (Serpulidae), and sand castle worms (Sabellaridae);

~~(H)~~ Mussel banks (Phylum Mollusca: Gastropoda);

~~(I)~~ Acorn barnacles (Arthropoda: Crustacea: Semibalanus sp.).

~~(e)~~ Licenses, permits, leases and franchises, and record keeping:

~~(b)(47)(1)~~ Assignment. Temporary transferal to another person of privileges under a license for which assignment is permitted. The person assigning the license delegates the privileges permitted under the license to be exercised by the assignee, but retains the power to revoke the assignment at any time, is still the responsible party for the license.

~~(b)(49)(2)~~ Designee. 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.

~~(b)(53)(3)~~ For Hire Vessel. As defined by G.S. 113-174 when the vessel is fishing in state waters or when the vessel originates from or returns to a North Carolina port.

~~(b)(37)(4)~~ Holder. A person who has been lawfully issued in their name a license, permit, franchise, lease, or assignment.

~~(b)(44)(5)~~ Land:

- ~~(b)(44)(B)(A)~~ For commercial fishing operations, when fish reach the shore or a structure connected to the shore.
- ~~(b)(44)(A)(B)~~ For purposes of trip tickets, when fish reach a licensed seafood dealer, or where the fisherman is the dealer, when the fish reaches the shore or a structure connected to the shore.
- ~~(b)(44)(C)(C)~~ For recreational fishing operations, when fish are retained in possession by the fisherman.
- ~~(b)(18)(6)~~ Licensee. Any person holding a valid license from the Department to take or deal in marine fisheries resources.
- ~~(b)(45)(7)~~ Master. Captain of a vessel or one who commands and has control, authority, or power over a vessel.
- ~~(b)(35)(8)~~ New fish dealer. Any fish dealer making application for a fish dealer license who did not possess a valid dealer license for the previous license year in that name or ocean pier license in that name on June 30, 1999. For purposes of license issuance, adding new categories to an existing fish dealers license does not constitute a new dealer.
- ~~(b)(22)(9)~~ North Carolina Trip Ticket. Multiple-part form provided by the Department to fish dealers who are required to record and report transactions on such forms.
- ~~(b)(43)(10)~~ Office of the Division. Physical locations of the Division conducting license transactions in the cities of Wilmington, Washington, Morehead City, Columbia, Wanchese and Elizabeth City, North Carolina. Other businesses or entities designated by the Secretary to issue Recreational Commercial Gear Licenses are not considered Offices of the Division.
- ~~(b)(34)(11)~~ Responsible party. 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 laws and regulations.
- ~~(b)(36)(12)~~ Tournament Organizer. The person who coordinates, supervises or otherwise directs a recreational fishing tournament and is the holder of the Recreational Fishing Tournament License.
- ~~(b)(23)(13)~~ Transaction. Act of doing business such that fish are sold, offered for sale, exchanged, bartered, distributed or landed. The point of landing shall be considered a transaction when the fisherman is the fish dealer.
- ~~(b)(48)(14)~~ Transfer. 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.

Authority G.S. 113-134; 113-174; 143B-289.52.

## SUBCHAPTER 03J - NETS, POTS, DREDGES, AND OTHER FISHING DEVICES

### SECTION .0100 - NET RULES, GENERAL

#### 15A NCAC 03J .0105 PURSE SEINES

(a) It is unlawful to use purse seines except for the taking of ~~menhaden or menhaden~~, Atlantic thread ~~herring~~, herring, gizzard shad or pinfish.

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

- (1) In the Atlantic Ocean within an area described:
  - (A) In 15A NCAC 03R .0111, and
  - (B) By Session Law 2007-320.
- (2) Except as provided in Subparagraph (5) of this Paragraph, between January 16 and May 14 in:
  - (A) Internal waters, and
  - (B) Atlantic Ocean within one mile of shore.
- (3) Between January 16 and March 31 in Core Sound.
- (4) In internal waters except in:
  - (A) Pamlico Sound,
  - (B) Pamlico River east of a line from Wades Point to Intracoastal Waterway Marker No. 1 at the mouth of Goose Creek,
  - (C) Neuse River east of a line from Wilkinson Point to Cherry Point,
  - (D) Adams Creek,
  - (E) Core Sound and its tributaries,
  - (F) Back Sound, the Straits, and North river,
  - (G) Newport River,
  - (H) North River, and
  - (I) Bogue Sound.
- (5) The Fisheries Director may, by proclamation, open the Atlantic Ocean within one mile of shore and the internal waters specified in Subparagraph (4) of this Paragraph between April 1 and May 14, and may impose any or all of the following restrictions:
  - (A) Specify means and methods by area which may be employed in the taking;
  - (B) Limit the quantity; and
  - (C) Require submission of statistical and biological data.

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

- (1) It is unlawful to take menhaden, Atlantic thread herring, gizzard shad or pinfish by use of a purse seine between sunset on any Friday and sunrise of the following Monday from the Friday of the Memorial Day weekend through sunset on Labor Day each year.

- (2) It is unlawful to take menhaden, Atlantic thread herring, gizzard shad or pinfish by use of a purse seine between the hours of sunrise and sunset on the following official holidays:
- (A) Memorial Day;
- (B) Fourth of July, when the Fourth of July falls on any calendar day between sunrise Friday and sunset Monday;  
and
- (C) Labor Day.
- (d) It is unlawful for the responsible party to fail to carry out the following requirements when a fish spill from a purse seine occurs:
- (1) Immediately notify the office of the Fisheries Director of the North Carolina Division of Marine Fisheries of such spill;  
and
- (2) Report to the Fisheries Director of the North Carolina Division of Marine Fisheries in writing within 30 days of the completion of spill clean-up on the circumstances associated with each spill and costs of its clean-up.

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

## SECTION .0200 - NET RULES, SPECIFIC AREAS

### 15A NCAC 03J .0202 ATLANTIC OCEAN

In the Atlantic Ocean:

- (1) It is unlawful to use nets from June 15 through August 15 in the waters of Masonboro Inlet or in the ocean within 300 yards of the beach between Masonboro Inlet and a line running southeasterly through the water tank 34° 13.1500'N - 77° 47.300' W on the northern end of Wrightsville Beach, a distance of 4400 yards parallel with the beach.
- (2) It is unlawful to use trawls within one-half mile of the beach between the Virginia line and Oregon Inlet.
- (3) It is unlawful to use a trawl with a mesh length less than four inches in the main body, three inches in the extension, and one and three-fourths inches in the cod end or tail bag inshore of a line beginning on the western side of Beaufort Inlet Channel at a point 34° 41.3000' N - 76° 40.1333' W; running westerly parallel to and one-half miles from the shore off Salter Path to a point 34° 40.5333' N - 76° 53.7500' W.
- (4) It is unlawful to use trawl nets, including flynets, southwest of the 9960-Y chain 40250 LORAN C line (running offshore in a southeasterly direction) from Cape Hatteras to the North Carolina/South Carolina line except:
- (a) Shrimp trawls as defined in 15A NCAC 03L .0103;
- (b) Crab trawls as defined in 15A NCAC 03L .0202; or
- (c) Flounder trawls as defined in 15A NCAC 03M .0503.
- ~~(5) Finfish taken with shrimp or crab trawls:~~
- ~~(a) It is unlawful to possess finfish (including pursuant to 15A NCAC 03M .0102) incidental to shrimp or crab trawl operations from December 1 through March 31 unless the weight of the combined catch of shrimp and crabs exceeds the weight of finfish except as provided in Sub Item (5)(b) of this Rule;~~
- ~~(b) It is unlawful to possess more than 300 pounds of kingfish (*Menticirrhus*, sp.) taken south of Bogue Inlet regardless of the amount of shrimp, crabs or finfish taken.~~
- (5) It is unlawful to possess finfish (including pursuant to 15A NCAC 03M .0102) incidental to shrimp or crab trawl operations from December 1 through March 31 unless the weight of the combined catch of shrimp and crabs exceeds the weight of finfish, except an additional 300 pounds of kingfish (*Menticirrhus*, spp.) may be taken south of Bogue Inlet.
- (6) It is unlawful to use unattended gill nets or block or stop nets in the Atlantic Ocean within 300 yards of the beach from Beaufort Inlet to the South Carolina line from sunset Friday to sunrise Monday from Memorial Day through Labor Day.
- (7) It is unlawful to use gill nets in the Atlantic Ocean with a mesh length greater than seven inches from April 15 through December 15.
- (8) It is unlawful to use shrimp trawls in all waters west of a line beginning at the southeastern tip of Baldhead Island at a point 33° 50.4833' N - 77° 57.4667' W; running southerly in the Atlantic Ocean to a point 33° 46.2667' N - 77° 56.4000' W; from 9:00 P.M. through 5:00 A.M.

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

## SUBCHAPTER 03K - OYSTERS, CLAMS, SCALLOPS AND MUSSELS

### SECTION .0100 – SHELLFISH, GENERAL

#### 15A NCAC 03K .0101 PROHIBITED SHELLFISH AREAS/ACTIVITIES

- (a) It is unlawful to possess, sell, or take oysters, clams or mussels from areas which have been designated as prohibited (polluted) by proclamation by the Fisheries Director except as provided in 15A NCAC 03K .0103, .0104, .0107, and .0401. The Fisheries Director shall issue such proclamations upon notice by the Division of Environmental Health that duly adopted criteria for approved shellfish harvest areas have not been met. The Fisheries Director may reopen any such closed area upon notification from the Division of Environmental Health that duly adopted criteria for approved shellfish harvest areas have been met. Copies of these proclamations and maps of these areas are available upon request at the Division of Marine Fisheries, 3441 Arendell St., Morehead City, NC 28557; (252) 726-7021.
- (b) The Fisheries Director may, by proclamation, close areas to the taking of oysters, clams, scallops and mussels in order to protect the shellfish populations for management purposes or for public health purposes not specified in Paragraph (a) of this Rule.
- (c) It is unlawful to possess or sell oysters, clams, or mussels taken from polluted waters outside North Carolina.

~~(d) It is unlawful to possess or sell oysters, clams, or mussels taken from the waters of North Carolina except as provided in G. S. 113-169.2 (i) without a harvest tag affixed to each container of oysters, clams or mussels. Harvest tags shall be affixed by the harvester and shall meet the following criteria:~~

- ~~(1) Tags shall be identified as harvest tags. They shall be durable for at least 90 days, water resistant, and a minimum of two and five eighths inches by five and one fourth inches in size.~~
- ~~(2) Tags shall be securely fastened to the outside of each container in which shellstock is transported. Bulk shipments in one container and from the same source may have one tag with all required information attached. Harvesters who are also certified shellfish dealers may use only their dealers tag if it contains the required information. The required information shall be included on all lots of shellfish subdivided or combined into market grades or market quantities by a harvester or a certified shellfish dealer.~~
- ~~(3) Tags shall contain legible information arranged in the specific order as follows:
  - ~~(A) The harvester's name, address and shellfish license or standard or retired standard commercial fishing license with shellfish endorsement number.~~
  - ~~(B) The date of harvest.~~
  - ~~(C) The most precise description of the harvest location as is practicable (e.g., Long Bay, Rose Bay) that can be easily located by maps and charts.~~
  - ~~(D) Type and quantity of shellfish.~~
  - ~~(E) The following statement in bold, capitalized type: "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON FILE FOR 90 DAYS".~~~~

*Authority G.S. 113-134; 113-168.5; 113-169.2; 113-182; 113-221; 143B-289.52.*

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

It is unlawful to use a rake more than 12 inches wide or weighing more than six pounds to take:

- (1) oysters or scallops;
- (2) clams in any live oyster bed, in any established bed of submerged aquatic vegetation as described in ~~15A NCAC 03I .0101(b)(20)~~, 15A NCAC 03I .0101, or in any established bed of salt water cordgrass (*Spartina alterniflora*).

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

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

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

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

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

(c) It is unlawful to take shellfish from any Shellfish Management Area which has been closed and posted, except that the Fisheries Director may, by proclamation, open specific areas to allow the taking of shellfish and may designate time, place, character, or dimensions of any method or equipment that may be employed.

~~(d) It is unlawful to take oysters from Seed Management Areas for planting on shellfish leases or franchises without first obtaining a Permit to Transplant Oysters from Seed Management Areas from the Fisheries Director. The procedures and requirements for obtaining permits are found in 15A NCAC 03O .0500.~~

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

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

~~(a) It is unlawful for individuals who harvest blue crabs for a recreational purpose to possess more than 50 blue crabs per person per day not to exceed 100 blue crabs per vessel per day.~~

~~(b) It is unlawful to exceed the daily vessel limits specified in G.S. 113-169.2 without each person having ready at hand a valid standard or retired standard commercial fishing license with shellfish endorsement or a shellfish license.~~

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

- ~~(1) during open seasons, and~~
- ~~(2) in accordance with limits outlined in G.S. 113-169.2. for recreational purposes.~~

~~(b) It is unlawful to possess, for recreational purposes, more than:~~

- ~~(1) 10 conchs or whelks per person per day, not to exceed 20 conchs or whelks per vessel per day, and~~
- ~~(2) 100 mussels per person per day, not to exceed 200 mussels per vessel per day, and~~
- ~~(3) 100 clams per person per day, not to exceed 200 clams per vessel per day.~~

Authority G.S. 113-134; 113-169.2; 113-182; 143B-289.52.

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

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

Authority G.S. 113-134; 113-182; 143B-289.52.

### **15A NCAC 03K .0107 DEPURATION OF SHELLFISH**

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

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

- (1) Specify species;
- (2) Specify areas except harvest will not be allowed from designated buffer zones adjacent to sewage outfall facilities;
- (3) Specify harvest days;
- (4) Specify time period;
- (5) Specify quantity or size;
- (6) Specify harvest methods;
- (7) Specify record keeping requirements.

(c) Depuration permits:

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

(d) Transport of clams or oysters for depuration:

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

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

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

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

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

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

(b) It is unlawful to use mechanical methods for oystering or clamming to take shellfish not subject to the restrictions in 15A NCAC 03K .0201, .0204, .0302, .0304, .0404, .0501, and .0503:

- (1) within any established bed of submerged aquatic vegetation as defined in 15A NCAC 03I .0101 or salt water cordgrass (*Spartina alterniflora*);
- (2) in areas designated in 15A NCAC 03R .0108, except on shellfish leases and franchises with a Permit to Use Mechanical Methods for Oysters and Clams on Shellfish Leases and Franchises;
- (3) in areas designated in 15A NCAC 03K .0204 and 03R .0103; and
- (4) except following restrictions for the use of mechanical methods specified pursuant to 15A NCAC 03J .0303 and 03K .0201, .0302, .0404, .0501, and .0503.

### **15A NCAC 03K .0109 SHELLFISH HARVESTER AND DEALER TAGS**

It is unlawful to possess or sell oysters, clams, or mussels in a commercial fishing operation without a harvest tag affixed to each container of oysters, clams or mussels. Tags shall be affixed by the harvester or dealer and shall meet the following criteria:

- (1) Tags shall be identified as harvest tags. They shall be durable for at least 90 days, water resistant, and a minimum of two and five-eighths inches by five and one-fourth inches in size.
- (2) Tags shall be securely fastened to the outside of each container in which shellstock is transported. A harvester or dealer tag shall be securely fastened to the outside of each container at a dealer location except, bulk shipments of shellfish in one container and from the same source may have one tag with all required information attached. Harvesters who are also certified shellfish dealers may use only their dealer tag if it contains the required information. The required information shall be included on all lots of shellfish subdivided or combined into market grades or market quantities by a harvester or a certified shellfish dealer.
- (3) Tags shall be attached to all shellfish stored at a dealer location.
- (4) Tags shall contain legible information arranged in the specific order as follows:
  - (a) The harvester's name, address and shellfish license or standard or retired standard commercial fishing license with shellfish endorsement number.
  - (b) The date of harvest.
  - (c) The most precise description of the harvest location as is practicable (e.g., Long Bay, Rose Bay) that can be easily located by maps and charts.
  - (d) Type and quantity of shellfish.
  - (e) The following statement in bold, capitalized type: "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON FILE FOR 90 DAYS".

Authority G.S. 113-134; 113-168.5; 113-169.2; 113-182; 113-221; 143B-289.52.

### **SECTION .0200 - OYSTERS**

#### **15A NCAC 03K .0201 OPEN SEASON AND POSSESSION LIMIT**

It is unlawful to take, buy, sell, take or possess any oysters from public bottoms except during the open season from October 15 through May 15. ~~March 31. During any open season that may be allowed within the time periods stated herein, the~~ The Fisheries Director may, by proclamation, close and open the season within the time period stated herein or close and open any of the various waters to the taking of oysters depending on the need to protect small oysters and their habitat, the amount of saleable oysters available for harvest, the number of days harvest is prevented due to unsatisfactory bacteriological samples and weather conditions, and the need to prevent loss of oysters due to parasitic infections and thereby reduce the transmission of parasites to uninfected oysters or other variable conditions and may impose any or all of the following ~~restrictions:~~ restrictions on commercial and recreational oyster harvest:

- (1) Specify days of the week harvesting will be allowed;
- (2) Specify areas;
- (3) Specify means and methods which may be employed in the taking;
- (4) Specify time period;
- (5) Specify the quantity, but shall not exceed possession of more than 50 bushels ~~aboard a vessel;~~ in a commercial fishing operation; and
- (6) Specify the minimum size limit by shell length, but not less than 2 1/2 inches.

Authority G.S. 113-134; 113-182; 113-201; 113-221; 143B-289.52.

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

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

(b) It is unlawful to use a trawl net, long haul seine, or swipe net in any designated Seed Oyster Management Area.

Authority G.S. 113-134; 113-182; 113-203; 113-221; 143B-289.52.

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

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

(b) It is unlawful to use mechanical methods for oystering or clamming in, or to take oysters or clams from, Oyster Sanctuaries designated in 15A NCAC 03R .0117.

Authority G.S. 113-134; 113-182; 113-201; 113-204; 143B-289.52.

## SECTION .0300 - HARD CLAMS (MERCENARIA)

### 15A NCAC 03K .0304 PROHIBITED TAKING

(a) It is unlawful to take clams by any method, other than by hand tongs, hand rakes, or by hand, except as provided in 15A NCAC 03K .0302 and .0303. Regardless of the areas which may be opened, it is unlawful to take clams by hand tongs in any established bed of submerged aquatic vegetation as described in ~~15A NCAC 03I .0101(b)(20)~~ 15A NCAC 03I .0101 or salt water cordgrass (*Spartina alterniflora*).

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

Authority G.S. 113-134; 113-182; 113-221; 143B-289.52.

## SUBCHAPTER 03L - SHRIMP, CRABS, AND LOBSTER

### SECTION .0200 – CRABS

#### 15A NCAC 03L .0209 RECREATIONAL HARVEST OF CRABS

It is unlawful to possess more than 50 blue crabs per person per day, not to exceed 100 blue crabs per vessel per day, for recreational purposes.

Authority G.S. 113-134; 113-182; 143B-289.52.

## SUBCHAPTER 03M - FINFISH

### SECTION .0100 – FINFISH, GENERAL

#### 15A NCAC 03M .0102 UNMARKETABLE FINFISH

(a) It is unlawful to land ~~or dispose of finfish as trash or scrap fish~~ finfish if in violation of minimum size or possession limits established by rule or proclamation.

(b) It is unlawful to land ~~or dispose of finfish as trash or scrap fish~~ finfish taken in connection with legitimate commercial fishing operations which are unmarketable as individual ~~food fish~~ finfish by reason of size, except that a quantity not exceeding 5,000 pounds per vessel per day may ~~be sold to a dealer that is licensed under G.S. 113-169.3 (f) (6), (7) and (8).~~

(1) ~~Landed and sold to a licensed finfish dealer, a licensed fish dehydrating plant or licensed finfish processing plant, and~~

(2) ~~Purchased or accepted by a licensed finfish dealer, a licensed fish dehydrating plant or licensed finfish processor.~~

(c) Menhaden, Atlantic thread herring, ~~and gizzard shad~~ shad, ~~and pinfish~~ are exempt from this Rule.

Authority G.S. 113-134; 113-185; 143B-289.52.

### SECTION .0200 - STRIPED BASS

#### 15A NCAC 03M .0201 GENERAL

(a) Striped bass is defined as striped bass (*Morone saxatilis*) and its hybrids taken in coastal and joint waters.

(b) Hook-and-line fishing equipment is not commercial fishing equipment in the striped bass fishery. It is unlawful to sell or purchase striped bass taken by hook-and-line. Striped bass taken legally with hook-and-line may be possessed and transported.

(c) It is unlawful to possess striped bass imported from other states less than 18 inches long (total length).

(d) It is unlawful to import, buy, sell, transport, offer to buy or sell, or possess striped bass ~~except:~~ except during any:

(1) ~~during the open striped bass season in established for internal coastal waters established in 15A NCAC 03M .0202;~~ waters;

(2) ~~during any open striped bass season established for the Atlantic Ocean in 15A NCAC 03M .0204;~~ Ocean; or

(3) ~~during any open striped bass season of another state without possession of the following:~~

(A) A bill of lading as described in 15A NCAC 03I .0114;

(B) A numbered, state-issued tag from the State of origin affixed through the mouth and gill cover. This tag must remain affixed until processed for consumption by the consumer.

(e) The management units and recreational fishery management areas for estuarine striped bass fisheries in coastal North Carolina are designated in 15A NCAC 03R .0201.

Authority G.S. 113-134; 113-182; 143B-289.52.

#### 15A NCAC 03M .0204 SEASON, SIZE AND HARVEST LIMIT: ATLANTIC OCEAN

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

(b) It is unlawful to buy, sell, transport, or possess striped bass from the Atlantic Ocean by any means except that the Fisheries Director may establish an open season at any time, and is further empowered to impose any or all of the following restrictions:

- (1) — Specify number of days;
- (2) — Specify areas;
- (3) — Specify means and methods which may be employed in the taking;
- (4) — Specify time period;
- (5) — Limit the quantity, both commercially and recreationally, and
- (6) — Provide for biological sampling of fish harvested.

Authority G.S. 113-134; 113-182; 113-221; 143B-289.52.

## SECTION .0300 - SPANISH AND KING MACKEREL

### 15A NCAC 03M .0301 SPANISH AND KING MACKEREL

(a) Spanish Mackerel:

- ~~(1)~~ — The Fisheries Director may, by proclamation, impose any or all of the following restrictions for Spanish mackerel:
  - ~~(A)~~ — Specify areas;
  - ~~(B)~~ — Specify seasons;
  - ~~(C)~~ — Specify quantity;
  - ~~(D)~~ — Specify means/methods;
  - ~~(E)~~ — Specify size.

~~(2)~~(1) It is unlawful to possess Spanish mackerel less than 12 inches fork length.

~~(3)~~(2) It is unlawful to possess more than 15 Spanish mackerel per person per day taken for recreational purposes.

~~(4)~~(3) It is unlawful to possess more than 15 Spanish mackerel per person per day in the Atlantic Ocean beyond three miles in a commercial fishing operation except for persons holding a valid National Marine Fisheries Service Spanish Mackerel Commercial Vessel Permit.

(b) King mackerel:

- ~~(1)~~ — The Fisheries Director may, by proclamation, impose any or all of the following restrictions for king mackerel:
  - ~~(A)~~ — Specify areas;
  - ~~(B)~~ — Specify seasons;
  - ~~(C)~~ — Specify quantity;
  - ~~(D)~~ — Specify means/methods;
  - ~~(E)~~ — Specify size.

~~(2)~~(1) It is unlawful to possess king mackerel less than 24 inches fork length.

~~(3)~~(2) It is unlawful to possess more than three king mackerel per person per day taken for recreational purposes.

~~(4)~~(3) It is unlawful to possess more than three king mackerel per person per day in the Atlantic Ocean:

- (A) by hook and line except for persons holding a valid National Marine Fisheries Service King Mackerel Commercial Vessel Permit; or
- (B) between three miles and 200 miles from the State's mean low water mark in a commercial fishing operation except for persons holding a valid National Marine Fisheries Service King Mackerel Commercial Vessel Permit.

~~(5)~~(4) It is unlawful to use gill nets in the Atlantic Ocean to take more than three king mackerel per person per day south of 34° 37.3000' N (Cape Lookout).

(c) Charter vessels or head boats that hold a valid National Marine Fisheries Service Coastal Migratory Pelagic (Charter Boat and Head Boat) permit must comply with the king mackerel and Spanish mackerel possession limits established in Subparagraphs ~~(a)(3)~~ (a)(2) and ~~(b)(3)~~ (b)(2) of this Rule when fishing with more than three persons (including the captain and mate) on board.

(d) It is unlawful to possess aboard or land from a vessel, or combination of vessels that form a single operation, more than 3,500 pounds of Spanish or king mackerel, in the aggregate, in any one day.

Authority G.S. 113-134; 113-182; 113-221; 143B-289.52.

## SECTION .0400 - MENHADEN AND ATLANTIC THREAD HERRING

### 15A NCAC 03M .0401 SEASON AND AREAS

(a) It is unlawful to take menhaden or Atlantic thread herring with a purse seine in violation of any of the following limitations:

- ~~(1)~~ — In the Atlantic Ocean within an area described in 15A NCAC 3R .0111.
- ~~(2)~~ — Between January 16 and May 14 in internal waters and in the Atlantic Ocean within one mile of shore.
- ~~(3)~~ — Between January 16 and March 31 in Core Sound.
- ~~(4)~~ — In internal waters except in:
  - (A) Pamlico Sound;
  - (B) Pamlico River east of a line from Wades Point to Intracoastal Waterway Marker No. 1 at the mouth of Goose Creek;
  - (C) Neuse River east of a line from Wilkinson Point to Cherry Point;
  - (D) Adams Creek;
  - (E) Core Sound and its tributaries;

- ~~(F) — Back Sound, the Straits, and North River;~~
- ~~(G) — Newport River;~~
- ~~(H) — North River;~~
- ~~(I) — Newport River, and~~
- ~~(J) — Bogue Sound.~~

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

- ~~(A) — Specify means and methods by area which may be employed in the taking;~~
- ~~(B) — Limit the quantity; and~~
- ~~(C) — Require submission of statistical and biological data.~~

~~(b) Menhaden and Atlantic thread herring may be taken at any time with a purse seine from beyond one mile of shore in the Atlantic Ocean and transported to port except as prohibited in 15A NCAC 3M .0403.~~

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

#### **15A NCAC 03M .0402 FOODFISH PROHIBITED**

~~It is unlawful to land from a vessel licensed for menhaden fishing foodfish in excess of one percent of the total amount of fish on board, or to land foodfish from any vessel taking fish with the aid of a purse seine. In determining whether the portion of foodfish exceeds one percent of the total fish on board, the Fisheries Director or his agents are authorized and empowered to grade any portion of the total catch on board. In selecting the size of the portion for the determination of the amount of foodfish present, the portion shall be no less than an amount required to fill a standard five-gallon container for each 100,000 fish on board.~~

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

#### **15A NCAC 03M .0403 FISHING ON WEEKENDS AND HOLIDAYS PROHIBITED**

~~(a) It is unlawful to take menhaden or Atlantic thread herring by use of a purse seine between sunset on any Friday and sunrise of the following Monday from the Friday of the Memorial Day weekend through sunset on Labor Day each year.~~

~~(b) It is unlawful to take menhaden or Atlantic thread herring by use of a purse seine between the hours of sunrise and sunset on the following official holidays:~~

- ~~(1) — Memorial Day;~~
- ~~(2) — Fourth of July, when the Fourth of July falls on any calendar day between sunrise Friday and sunset Monday; and~~
- ~~(3) — Labor Day.~~

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

#### **15A NCAC 03M .0404 FISH SPILL REPORTING MANDATORY**

~~When a fish spill occurs, the responsible menhaden fishing company shall:~~

- ~~(1) — Immediately notify the office of the Fisheries Director of the North Carolina Division of Marine Fisheries of such spill; and~~
- ~~(2) — Report to the Fisheries Director of the North Carolina Division of Marine Fisheries in writing on the circumstances associated with each spill and costs of its clean up.~~

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

### **SECTION .0500 – OTHER FINFISH**

#### **15A NCAC 03M .0501 RED DRUM**

~~(a) The Fisheries Director, may by proclamation, impose any or all of the following restrictions on the taking of red drum:~~

- ~~(1) — Specify areas.~~
- ~~(2) — Specify seasons.~~
- ~~(3) — Specify quantity.~~
- ~~(4) — Specify means/methods.~~
- ~~(5) — Specify size.~~

~~(b)(a) It is unlawful to remove red drum from any type of net with the aid of any boat hook, gaff, spear, gig, or similar device.~~

~~(c)(b) It is unlawful to possess red drum less than 18 inches total length or greater than 27 inches total length.~~

~~(d)(c) It is unlawful to possess more than one red drum per person per day taken by hook-and-line or for recreational purposes.~~

~~(e)(d) The annual commercial harvest limit (September 1 through August 31) for red drum is 250,000 pounds. If the harvest limit is projected to be taken, the Fisheries Director shall, by proclamation, prohibit possession of red drum taken in a commercial fishing operation.~~

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

#### **15A NCAC 03M .0504 TROUT**

~~(a) Spotted seatrout (speckled trout).~~

- ~~(1) It is unlawful to possess spotted seatrout less than 12 inches total length.~~

- (2) It is unlawful to possess more than 10 spotted seatrout per person per day taken by hook-and-line or for recreational purposes.
- ~~(b) Weakfish (gray trout):~~
- ~~(1) The Fisheries Director may, by proclamation, impose any or all of the following restrictions on the taking of weakfish by commercial fishing operations:~~
- ~~(A) Specify areas.~~
- ~~(B) Specify seasons.~~
- ~~(C) Specify quantity.~~
- ~~(D) Specify means/methods.~~
- ~~(E) Specify size, but the minimum size shall not be greater than 12 inches total length.~~
- ~~(2) The Fisheries Director may, by proclamation, in order to comply with or utilize conservation equivalency to comply with the Atlantic States Marine Fisheries Commission Weakfish Management Plan, impose any or all of the following restrictions on the taking of weakfish by hook and line or for recreational purposes:~~
- ~~(A) Specify quantity.~~
- ~~(B) Specify size.~~

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

#### **15A NCAC 03M .0505 SHARK**

The Fisheries Director may, by proclamation, impose any or all of the following restrictions in the shark fishery:

- ~~(1) Specify size;~~
- ~~(2) Specify seasons;~~
- ~~(3) Specify areas;~~
- ~~(4) Specify quantity;~~
- ~~(5) Specify means/methods; and~~
- ~~(6) Require submission of statistical and biological data.~~

*Authority G.S. 113-134; 113-182; 113-221; 143B-289.4.*

#### **15A NCAC 03M .0506 SNAPPER-GROUPER COMPLEX**

~~(a) The Fisheries Director may, by proclamation, impose any or all of the following restrictions in the fisheries for species of the snapper-grouper complex and black sea bass in order to comply with the management requirements incorporated in the Fishery Management Plans for Snapper-Grouper and Sea Bass developed by the South Atlantic Fishery Management Council or Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission:~~

- ~~(1) Specify size;~~
- ~~(2) Specify seasons;~~
- ~~(3) Specify areas;~~
- ~~(4) Specify quantity;~~
- ~~(5) Specify means/methods; and~~
- ~~(6) Require submission of statistical and biological data.~~

~~(a) The species of the snapper-grouper complex listed in the South Atlantic Fishery Management Council Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region are hereby incorporated by reference and copies are available via the Federal Register posted on the Internet at [www.gpoaccess.gov/fr](http://www.gpoaccess.gov/fr) [www.safmc.net](http://www.safmc.net) and at the Division of Marine Fisheries, P.O. Box 769, Morehead City, North Carolina 28557 at no cost.~~

~~(b) Black sea bass, south of Cape Hatteras (35° 15.0321'):~~

- ~~(1) It is unlawful to possess black sea bass less than ten inches total length.~~
- ~~(2) It is unlawful to take or possess more than 20 black sea bass per person per day without a valid Federal Commercial Snapper-Grouper permit.~~

~~(c) Gag grouper:~~

- ~~(1) It is unlawful to possess gag grouper (gray grouper) less than 24 inches total length.~~
- ~~(2) It is unlawful to possess more than two gag grouper (gray grouper) per person per day without a valid Federal Commercial Snapper-Grouper Permit.~~
- ~~(3) It is unlawful to possess more than two gag grouper (gray grouper) per person per day during the months of March and April.~~
- ~~(4) It is unlawful to sell or purchase gag grouper (gray grouper) taken from waters under the jurisdiction of North Carolina or the South Atlantic Fishery Management Council during the months of March and April.~~

~~(d) Black grouper:~~

- ~~(1) It is unlawful to possess black grouper less than 24 inches total length.~~
- ~~(2) It is unlawful to possess more than two black grouper per person per day without a valid Federal Commercial Snapper-Grouper Permit.~~
- ~~(3) It is unlawful to take or possess more than two black grouper per person per day during the months of March and April.~~
- ~~(4) It is unlawful to sell or purchase black grouper taken from waters under the jurisdiction of North Carolina or the South Atlantic Fishery Management Council during the months of March and April.~~

~~(e) It is unlawful to possess red grouper less than 20 inches total length.~~

~~(f) It is unlawful to possess yellowfin grouper (fireback grouper) less than 20 inches total length.~~

- (g) It is unlawful to possess seamp less than 20 inches total length.
- (h) It is unlawful to possess yellowmouth grouper less than 20 inches total length.
- (i) Speckled hind (kitty mitchell) and warsaw grouper:
- (1) It is unlawful to sell or purchase speckled hind or warsaw grouper.
  - (2) It is unlawful to possess more than one speckled hind or one warsaw grouper per vessel per trip.
- (j) Greater amberjack:
- (1) For recreational purposes:
    - (A) It is unlawful to possess greater amberjack less than 28 inches fork length.
    - (B) It is unlawful to possess more than one greater amberjack per person per day.
  - (2) It is unlawful to sell or purchase greater amberjack less than 36 inches fork length.
  - (3) It is unlawful to possess more than one greater amberjack per person per day without a valid Federal Commercial Snapper Grouper Permit.
  - (4) It is unlawful to possess more than one greater amberjack per person per day during the month of April.
  - (5) It is unlawful to sell or purchase greater amberjack during any season closure for greater amberjack.
- (k) Red Snapper:
- (1) It is unlawful to possess red snapper less than 20 inches total length.
  - (2) It is unlawful to possess more than two red snapper per person per day without a valid Federal Commercial Snapper Grouper permit.
- (l) Vermilion Snapper:
- (1) For recreational purposes:
    - (A) It is unlawful to possess vermilion snapper (beeliner) less than 11 inches total length.
    - (B) It is unlawful to possess more than 10 vermilion snapper per person per day.
  - (2) It is unlawful to possess or sell vermilion snapper (beeliner) less than 12 inches total length with a valid Federal Commercial Snapper Grouper permit.
- (m) It is unlawful to possess silk snapper (yelloweye snapper) less than 12 inches total length.
- (n) It is unlawful to possess blackfin snapper (hambone snapper) less than 12 inches total length.
- (o) Red Porgy (*Pagrus pagrus*):
- (1) It is unlawful to possess red porgy less than 14 inches total length.
  - (2) It is unlawful to possess more than one red porgy per person per day without a valid Federal Commercial Snapper Grouper permit.
  - (3) It is unlawful to sell or offer for sale red porgy from January 1 through April 30.
  - (4) It is unlawful to land more than 50 pounds of red porgy from May 1 through December 31 in a commercial fishing operation.
- (p) Combined Bag Limits:
- (1) It is unlawful to possess more than 10 vermilion snapper and 10 other snappers per person per day of which no more than two may be red snapper without a valid Federal Commercial Snapper Grouper permit.
  - (2) It is unlawful to possess more than five grouper without a valid Federal Commercial Snapper Grouper permit of which:
    - (A) no more than two may be gag or black grouper (individually or in combination) per person per day;
    - (B) no more than one may be speckled hind or one warsaw grouper per vessel per trip.
  - (3) It is unlawful to possess more than 20 fish in the aggregate per person per day of the following species without a valid Federal Commercial Snapper Grouper permit: whitebone porgy, jolthead porgy, knobbed porgy, longspine porgy, sheepshead, gray triggerfish, queen triggerfish, yellow jack, crevalle jack, bar jack, almaco jack, lesser amberjack, banded rudderfish, white grunt, margates, spadefish, and hogfish.
- (q) It is unlawful to possess any species of the Snapper Grouper complex except snowy, warsaw, yellowedge, and misty groupers; blueline, golden and sand tilefishes; while having longline gear aboard a vessel.
- (r) It is unlawful to possess Nassau grouper or jewfish.
- (s) Fish Traps/Pots:
- (1) It is unlawful to use or have on board a vessel fish traps for taking snappers and groupers except sea bass pots as allowed in Subparagraph (2) of this Paragraph.
  - (2) Sea bass may be taken with pots that conform with the federal rule requirements for mesh sizes and pot size as specified in 50 CFR Part 646.2, openings and degradable fasteners specified in 50 CFR Part 646.22(c)(2)(i), and escape vents and degradable materials as specified in 50 CFR Part 622.40 (b)(3)(i) and rules published in 50 CFR pertaining to sea bass north of Cape Hatteras (35° 15' N Latitude). Copies of these rules are available via the Federal Register posted on the Internet at [www.gpoaccess.gov/fr](http://www.gpoaccess.gov/fr) and at the Division of Marine Fisheries, P.O. Box 769, Morehead City, North Carolina 28557 at no cost.
- (t) It is unlawful for persons in possession of a valid National Marine Fisheries Service Snapper Grouper Permit for Charter Vessels to exceed the creel restrictions established in Paragraphs (b), (j), (o), and (p) of this Rule when fishing with more than three persons (including the captain and mate) on board.
- (u)(b) In the Atlantic Ocean, it is unlawful for an individual fishing under a Recreational Commercial Gear License with seines, shrimp trawls, pots, trotlines or gill nets to take any species of the Snapper- Grouper complex.

Authority G.S. 113-134; 113-182; 113-221; 143B-289.52.

~~(a) In order to comply with or utilize conservation equivalency to comply with the management requirements incorporated in the Fishery Management Plan for Bluefish developed cooperatively by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission, the Fisheries Director may, by proclamation, take any or all of the following actions for bluefish:~~

- ~~(1) Taken by a commercial fishing operation:
  - (A) Specify size;
  - (B) Specify seasons;
  - (C) Specify areas;
  - (D) Specify quantity;
  - (E) Specify means/methods; and
  - (F) Require submission of statistical and biological data.~~
- ~~(2) Taken for recreational purposes:
  - (A) Specify size;
  - (B) Specify quantity.~~

~~(b) It is unlawful to possess more than 15 bluefish per person per day for recreational purposes. Of these 15 bluefish, it is unlawful to possess more than five bluefish that are greater than 24 inches total length.~~

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

#### **15A NCAC 03M .0512 COMPLIANCE WITH FISHERY MANAGEMENT PLANS**

In order to comply with management requirements incorporated in Federal Fishery Management Council Management Plans or Atlantic States Marine Fisheries Commission Management ~~Plans~~, Plans or to implement state management measures, the Fisheries Director may, by proclamation, ~~suspend the minimum size and harvest limits established by the Marine Fisheries Commission, and implement different minimum size and harvest limits.~~ take any or all of the following actions for species listed in the Interjurisdictional Fisheries Management Plan:

- (1) Specify size;
- (2) Specify seasons;
- (3) Specify areas;
- (4) Specify quantity;
- (5) Specify means and methods; and
- (6) Require submission of statistical and biological data.

Proclamations issued under this ~~Section~~ Rule shall be subject to approval, cancellation, or modification by the Marine Fisheries Commission at its next regularly scheduled meeting or an emergency meeting held pursuant to ~~G.S. 113-221(e1)~~; G.S. 113-221.1.

*Authority G.S. 113-134; 113-182; 113-221; 143B-289.4.*

#### **15A NCAC 03M .0513 RIVER HERRING AND SHAD**

~~(a) It is unlawful to possess river herring taken from coastal fishing waters unless the river herring season is open.~~

~~(b) The take of river herring shall be set forth in the North Carolina River Herring Fishery Management Plan for implementation under Paragraph (c) of the Rule.~~

~~(c) The Fisheries Director may, by proclamation, based on variability in environmental and local stock conditions, take any or all of the following actions in the commercial and recreational blueback herring, alewife, American shad and hickory shad fisheries:~~

- ~~(1) Specify size;~~
- ~~(2) Specify season;~~
- ~~(3) Specify area;~~
- ~~(4) Specify quantity;~~
- ~~(5) Specify means/methods; and~~
- ~~(6) Require submission of statistical and biological data.~~

~~(d) It is unlawful to take American shad and hickory shad by any method except hook and line from April 15 through December 31.~~

~~(e) It is unlawful to possess more than 10 American shad or hickory shad, in the aggregate, per person per day taken by hook and line or for recreational purposes.~~

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

#### **15A NCAC 03M .0514 SCUP**

~~In order to comply with or utilize conservation equivalency to comply with the management requirements incorporated in the Fishery Management Plan for Scup developed cooperatively by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission, the Fisheries Director may, by proclamation, take any or all of the following actions in the scup fishery:~~

- ~~(1) Specify size;~~
- ~~(2) Specify seasons;~~
- ~~(3) Specify areas;~~
- ~~(4) Specify quantity;~~
- ~~(5) Specify means/methods; and~~
- ~~(6) Require submission of statistical and biological data.~~

*Authority G.S. 113-134; 113-182; 113-221; 143B-289.4.*

### 15A NCAC 03M .0518 KINGFISH (SEA MULLET)

The Fisheries Director may, by proclamation, impose any or all of the following restrictions on the taking of kingfishes:

- (1) Specify season.
- (2) Specify areas.
- (3) Specify quantity.
- (4) Specify means and methods.
- (5) Specify size.

Authority G.S. 113-134; 113-182; 113-221; 143B-289.4.

### 15A NCAC 03M .0519 SHAD

(a) It is unlawful to take American shad and hickory shad by any method except hook-and-line from April 15 through December 31.

(b) It is unlawful to possess more than 10 American shad or hickory shad, in the aggregate, per person per day taken by hook-and-line or for recreational purposes.

Authority G.S. 113-134; 113-182; 113-221; 143B-289.4.

### 15A NCAC 03M .0520 TUNA

(a) It is unlawful to possess in a commercial fishing operation:

- (1) Yellowfin tuna less than 27 inches curved fork length.
- (2) Bigeye tuna less than 27 inches curved fork length.
- (3) Bluefin tuna less than 73 inches curved fork length.

(b) It is unlawful to possess for recreational purposes:

- (1) Yellowfin tuna less than 27 inches curved fork length.
- (2) Bigeye tuna less than 27 inches curved fork length.
- (3) More than three yellowfin tuna per person per day.

Authority G.S. 113-134; 113-182; 143B-289.4.

## SUBCHAPTER 030 – LICENSES, LEASES AND FRANCHISES

### SECTION .0200 – LEASES AND FRANCHISES

#### 15A NCAC 030 .0201 STANDARDS FOR SHELLFISH BOTTOM AND WATER COLUMN LEASES

(a) All areas of the public bottoms underlying coastal fishing waters shall meet the following standards in addition to the standards in G.S. 113-202 in order to be deemed suitable for leasing for shellfish cultivation purposes:

- (1) The lease area must not contain a natural shellfish bed which is defined as 10 bushels or more of shellfish per acre.
- (2) The lease area must not be closer than 100 feet to a developed shoreline. In an area bordered by undeveloped shoreline, no minimum setback is required. When the area to be leased borders the applicant's property or borders the property of riparian owners who have consented in a notarized statement, the Secretary may reduce the distance from shore required by this Rule.
- (3) ~~Unless the applicant can affirmatively establish a necessity for greater acreage through the management plan that is attached to the application and other evidence submitted to the Secretary, the~~ The proposed lease area shall not be less than one-half acre and shall not exceed: exceed five acres for all areas except those areas open to the mechanical harvest of oysters where proposed lease area shall not exceed 10 acres.
  - (A) ~~10 acres for oyster culture;~~
  - (B) ~~5 acres for clam culture; or~~
  - (C) ~~5 acres for any other species.~~

This Subparagraph shall not be applied to reduce any holdings as of July 1, 1983.

(b) Persons holding five or more acres under shellfish lease or franchise shall meet the standards established in Paragraph (c) of this Rule prior to acceptance of applications for additional shellfish lease acreage.

~~(b)(c)~~ (c) Franchises recognized pursuant to G.S. 113-206 and shellfish bottom leases shall meet the following standards in addition to the standards in G.S. 113-202. In order to avoid termination, franchises and shellfish bottom leases shall:

- (1) Produce and market 10 bushels of shellfish per acre per year; and
- (2) Plant 25 bushels of seed shellfish per acre per year or 50 bushels of cultch per acre per year, or a combination of cultch and seed shellfish where the percentage of required cultch planted and the percentage of required seed shellfish planted totals at least 100 percent.

~~(c)(d)~~ (d) The following standards shall be applied to determine compliance with Subparagraphs (1) and (2) of Paragraph ~~(b)(c)~~ (c) of this Rule:

- (1) Only shellfish planted, produced or marketed according to the definitions in ~~15A NCAC 03I .0101 (26), (27) and (28)~~ 15A NCAC 03I .0101 shall be submitted on production/utilization forms for shellfish leases and franchises.
- (2) If more than one shellfish lease or franchise is used in the production of shellfish, one of the leases or franchises used in the production of the shellfish must be designated as the producing lease or franchise for those shellfish. Each bushel of shellfish may be produced by only one shellfish lease or franchise. Shellfish transplanted between leases or franchises may be credited as planting effort on only one lease or franchise.

- (3) Production and marketing information and planting effort information shall be compiled and averaged separately to assess compliance with the standards. The lease or franchise must meet the production requirement and the planting effort requirement within the dates set forth to be judged in compliance with these standards.
  - (4) In determining production and marketing averages and planting effort averages for information not reported in bushel measurements, the following conversion factors shall be used:
    - (A) 300 oysters, 400 clams, or 400 scallops equal one bushel; and
    - (B) 40 pounds of scallop shell, 60 pounds of oyster shell, 75 pounds of clam shell and 90 pounds of fossil stone equal one bushel.
  - (5) In the event that a portion of an existing lease or franchise is obtained by a new owner, the production history for the portion obtained shall be a percentage of the originating lease or franchise production equal to the percentage of the area of lease or franchise site obtained to the area of the originating lease or franchise.
  - (6) The production and marketing rates shall be ~~averaged~~ averaged:
    - (A) ~~over the most recent three year period~~ consecutive full calendar years remaining on the lease contract after January 1 December 31 following the second anniversary of initial bottom leases and franchises and throughout the terms of renewal leases. franchises.
    - (B) ~~over the consecutive full calendar years beginning January 1 of the final year of the previous lease term and ending December 31 of the final year of the current lease contract for renewal leases.~~
    - (C) ~~For water column leases, these production and marketing rates shall be averaged over the first five year period for initial water column leases and over the most recent three five year period thereafter. thereafter for renewal water column leases.~~  
Three year averages for production Production and marketing rates rate averages shall be computed irrespective of transfer of the shellfish lease or franchise.
  - (7) All bushel measurements shall be in U.S. Standard Bushels.
- ~~(d)(e)~~ Water columns superjacent to leased bottoms shall meet the standards in G.S. 113-202.1 in order to be deemed suitable for leasing for aquaculture purposes.
- ~~(e)(f)~~ Water columns superjacent to franchises recognized pursuant to G.S. 113-206 shall meet the standards in G.S. 113-202.2 in order to be deemed suitable for leasing for aquaculture purposes.
- ~~(f)(g)~~ Water column leases must produce and market 40 bushels of shellfish per acre per year to meet the minimum commercial production requirement or plant 100 bushels of cultch or seed shellfish per acre per year to meet commercial production by planting effort. The standards for determining production and marketing averages and planting effort averages shall be the same for water column leases as for bottom leases and franchises set forth in Paragraph ~~(e)(d)~~ of this Rule except that either the produce and market requirement or the planting requirement must be met.

*Authority G.S. 113-134; 113-201; 113-202; 113-202.1; 113-202.2; 143B-289.52.*

### **15A NCAC 030 .0203 SHELLFISH LEASE APPLICATION PROCESSING**

- (a) Upon acceptance of a completed application, the proposed lease area shall be inspected within a reasonable time by agents of the Division. Proposed lease areas inconsistent with applicable standards contained or referenced in 15A NCAC 30 .0201 shall result in the return of applications for amendment to remove the inconsistencies. If the boundaries of the proposed lease area are modified, the stakes identifying such areas shall be relocated accordingly by the applicant. The failure of applicants to amend applications or modify lease area identification, when required, shall result in denial of such applications.
- (b) If the initial or amended lease application is deemed consistent with all applicable requirements, the Secretary or his designee shall notify the applicant and publish notices of intention to lease in accordance with standards in G.S. 113-202(f).
- (c) The Secretary shall consider the lease application, the Division's proposed lease area analysis, and public comments, and may in his discretion lease or decline to lease the proposed lease area or any part thereof. Special conditions may be imposed so that leases may be issued which would otherwise be denied. Should an applicant decide not to accept any special condition imposed on the lease by the Secretary, the application shall be considered denied.
- (d) Upon approval of leases by the Secretary, applicants shall mark the shellfish bottom leases in accordance with 15A NCAC 30 .0204(a)(1), water column leases in accordance with 15A NCAC 30 .0204(a)(2), and shall within 90 days submit to the Division acceptable surveys of the areas approved for leasing except that a water column lease which entirely covers a shellfish bottom lease or franchise with an accepted survey on file does not require another survey. Such surveys shall be made at the expense of applicants and must meet the following standards:
  - (1) Surveys and maps shall meet all the requirements of 21 NCAC 56 .1600, Standards of Practice for Land Surveying in North Carolina, which is hereby incorporated by reference including subsequent amendments and editions. This material is available for inspection and copies may be obtained from the Marine Fisheries Division, Marine Fisheries Building, 3441 Arendell St., P.O. Box 769, Morehead City, North Carolina 28557, at no cost.
  - (2) Maps shall bear the certificate:  
 "I \_\_\_\_\_ certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision); that the error of closure as calculated by latitudes and departures is 1: \_\_\_\_\_, that the area is \_\_\_\_\_ acres. Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ AD \_\_\_\_\_."

\_\_\_\_\_  
Surveyor or Engineer
- (3) The phrase "other appropriate natural monuments or landmarks" in 21 NCAC 56 .1604(e)(9) shall include bridges, roads, highways, intersections, publicly maintained aids to navigation, houses and other permanent buildings, radio, telephone,

TV, and water towers; docks; piers, and bulkheads; but does not include stakes marking the boundaries of adjoining leases, points of marsh, junctions of streams, or other landmarks which are particularly subject to change through natural processes, storms, or the effect of man.

- (4) A written description of the survey suitable for official documents shall be provided with the survey.
- (5) Locations of all corner markers in latitude and longitude shall be provided with the survey and presented in an eight digit format. The relative accuracy of the corner marker locations shall be equal to or less than two meters. Information on the method of measurement, make and model of equipment, and coordinate system used to determine the latitude and longitude shall be included.

(e) Proposed shellfish bottom lease areas remain public bottom until a formal lease has been executed by the Secretary.

(f) Proposed water column lease areas superjacent to shellfish bottom leases and recognized perpetual franchises remain public water until a formal lease has been executed by the Secretary.

*Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 143B-289.52.*

#### **15A NCAC 03O .0210 SHELLFISH FRANCHISES**

(a) The resolution of claims filed under G.S. 113-205 is governed by standards in Departmental Rules 15A NCAC 1G .0200 and .0300. Following receipt of notification that a claim has a valid chain of title, the owner shall provide to the Division within 90 days a survey prepared in accordance with the standards in ~~15A NCAC 3O .0203(d)~~ 15A NCAC 03O .0203(d). Failure to provide the required survey within the time period specified will result in denial of the claim.

(b) Acceptable management plans, prepared in accordance with the standards in ~~15A NCAC 3O .0202(b)~~ 15A NCAC 03O .0202(b), shall be provided to the Division within 30 days following formal recognition of a valid chain of title and at ten-year intervals thereafter.

(c) The survey and management plan requirements in Paragraphs (a) and (b) of this Rule, and all other requirements and conditions of this Section affecting management of franchises, shall apply to all valid shellfish franchises recognized prior to September 1, 1989.

(d) Commercial production requirements for franchises shall be identical to that required for leases in ~~15A NCAC 3O .0201(a)(2)~~ 15A NCAC 03O .0201(c) averaged over the most recent three-year period after January 1 following the second anniversary of the dates of recognition of claims as valid shellfish franchises and continuing throughout the term of management plans required in Paragraph (b) of this Rule. Annual reporting of commercial production shall be submitted upon receipt of forms provided by the Division for that purpose.

*Authority G.S. 113-134; 113-201; 113-202; 113-205; 143B-289.52.*

### **SUBCHAPTER 03R - DESCRIPTIVE BOUNDARIES**

#### **SECTION .0100 - DESCRIPTIVE BOUNDARIES**

#### **15A NCAC 03R .0116 DESIGNATED SEED OYSTER MANAGEMENT AREAS**

The Seed Oyster Management Areas referenced in 15A NCAC 03K .0208 are delineated in the following coastal water areas:

- (1) Croatan Sound and tributaries: Cedar Bush Bay Seed Oyster Management Area, within the area described by a line beginning at a point 35° 50.0383' N - 75° 40.0712' W; running easterly to a point 35° 50.2328' N - 75° 39.4930' W; running southeasterly to a point 35° 49.3831' N - 75° 39.1521' W; running southwesterly to a point 35° 48.8000' N - 75° 39.5000' W; running westerly to a point 35° 48.6333' N - 75° 40.7000' W; running northerly to a point 35° 49.7000' N - 75° 40.6333' W; running northeasterly back to the point of beginning;
- (2) Croatan and Roanoke sounds and tributaries: Wanchese Marshes Seed Oyster Management Area, within an area described by a line beginning at a point 35° 49.0000' N - 75° 38.3000' W; running northerly to a point 35° 49.2243' N - 75° 38.3000' W; running easterly to a point 35° 49.0806' N - 75° 37.5293' W; running easterly to a point 35° 49.2893' N - 75° 37.0335' W; running northeasterly to point 35° 49.5541' N - 75° 36.9715' W; running southerly to a point 35° 49.0000' N - 75° 36.5500' W; running southwesterly to a point 35° 48.1500' N - 75° 36.9500' W; running westerly to a point 35° 48.1000' N - 75° 37.6333' W; running northwesterly to the point of beginning;
- (3) Pamlico Sound and tributaries: Bay River Seed Oyster Management Area, within an area described by a line beginning at a point 35° 10.7670' N - 76° 36.7000' W off Spencer Point; running southeasterly to a point 35° 10.5330' N - 76° 36.4670' W; running westerly to a point 35° 10.4670' N - 76° 36.6500' W; running northwesterly to a point 35° 10.8000' N - 76° 36.9170' W, running easterly to the point of beginning;
- (4) White Oak River: White Oak River Seed Oyster Management Area, within an area described by a line beginning at a point 34° 43.0774' N - 77° 06.8610' W on the White Oak River/Stevens Creek polluted area line; running northeasterly to a point 34° 43.4006' N - 77° 06.1293' W on the east shore; running southerly along the shoreline to a point 34° 43.0755' N - 77° 06.1187' W; running southwesterly to a point 34° 42.8800' N - 77° 06.7975' W on the White Oak River/Stevens Creek polluted area line; running northerly to the point of beginning;
- (5) Topsail Sound and tributaries:
  - (a) Virginia Creek Seed Oyster Management Area, within an area described by a line beginning at a point 34° 25.4620' N - 77° 36.0074' W on the north shore; running southerly to a point 34° 25.1346' N - 77° 36.0640' W on the south shore; running easterly and southerly along the shoreline to a point 34° 24.9438' N - 77° 35.5325' W on Sloop Point; running northeasterly to a point 34° 25.0988' N - 77° 35.2920' W on the north shore; running northwesterly along the shoreline to the point of beginning;
  - (b) Topsail Sound Seed Oyster Management Area, within an area described by a line beginning at a point 34° 24.6555' N - 77° 35.6012' W across the IWW from Sloop Point; running southeasterly to a point 34° 24.3677' N

- 77° 35.2015' W; running northeasterly to a point 34° 24.5260' N - 77° 35.1070' W; running northwesterly to a point 34° 24.8690' N - 77° 35.2872' W; running southwesterly to the point of beginning.

*Authority G.S. 113-134; 113-182; 113-201; 113-204; 143B-289.52.*

### **15A NCAC 03R .0117 OYSTER SANCTUARIES**

The Oyster Sanctuaries referenced in 15A NCAC 03K .0209 are delineated in the following coastal water areas:

- (1) Croatan Sound area: within the area described by a line beginning at a point 35° 48.2842' N - 75° 38.4575' W; running westerly to a point 35° 48.2842' N - 75° 38.3360' W; running southerly to a point 35° 48.1918' N - 75° 38.3360' W; running easterly to a point 35° 48.1918' N - 75° 38.4575' W; running northerly to the point of beginning.
- (2) Pamlico Sound area:
  - (a) Crab Hole: within the area described by a line beginning at a point 35° 43.6833' N - 75° 40.7500' W; running westerly to a point 35° 43.6833' N - 75° 40.5083' W; running southerly to a point 35° 43.5000' N - 75° 40.5083' W; running easterly to a point 35° 43.5000' N - 75° 40.7500' W; running northerly to the point of beginning.
  - (b) Deep Bay: within the area described by a line beginning at a point 35° 22.9126' N - 75° 22.1612' W; running westerly to a point 35° 22.9126' N - 75° 22.3377' W; running southerly to a point 35° 22.7717' N - 75° 22.1612' W; running easterly to a point 35° 22.7717' N - 75° 22.3377' W; running northerly to the point of beginning.
  - (c) Bluff Point: within the area described by a line beginning at a point 35° 18.3000' N - 76° 10.2760' W; running westerly to a point 35° 18.3000' N - 76° 10.0890' W; running southerly to a point 35° 18.1460' N - 76° 10.0890' W; running easterly to a point 35° 18.1460' N - 76° 10.2760' W; running northerly to the point of beginning.
  - (d) Clam Shoal: within the area described by a line beginning at a point 35° 17.4784' N - 75° 37.4173' W; running westerly to a point 35° 17.4800' N - 75° 37.1800' W; running southerly to a point 35° 17.1873' N - 75° 37.1826' W; running easterly to a point 35° 17.1873' N - 75° 37.4173' W; running northerly to the point of beginning.
  - (e) Middle Bay: within the area described by a line beginning at a point 35° 14.1580' N - 76° 30.3320' W; running westerly to a point 35° 14.1580' N - 76° 30.1780' W; running southerly to a point 35° 14.1150' N - 76° 30.1780' W; running easterly to a point 35° 14.1150' N - 76° 30.3320' W; running northerly to the point of beginning.
  - (f) Ocracoke area: within the area described by a line beginning at a point 35° 10.8150' N - 75° 59.8530' W; running westerly to a point 35° 10.8150' N - 75° 59.6320' W; running southerly to a point 35° 10.6320' N - 75° 59.6320' W; running easterly to a point 35° 10.6320' N - 75° 59.8530' W; running northerly to the point of beginning.
  - (g) West Bay: within the area described by a line beginning at a point 34° 58.8517' N - 76° 21.4735' W; running westerly to a point 34° 58.8517' N - 76° 21.3632' W; running southerly to a point 34° 58.7661' N - 76° 21.3632' W; running easterly to a point 34° 58.7661' N - 76° 21.4735' W; running northerly to the point of beginning.
- (3) Neuse River: within the area described by a line beginning at a point 35° 00.4742' N - 76° 32.0550' W; running westerly to a point 35° 00.4742' N - 76° 31.9550' W; running southerly to a point 35° 00.3920' N - 76° 31.9550' W; running easterly to a point 35° 00.3920' N - 76° 32.0550' W; running northerly to the point of beginning.

*Authority G.S. 113-134; 113-182; 113-201; 113-204; 143B-289.52.*