

1
2 **MODIFY POUND NET RULES & RCGL RULE**
3 **ISSUE PAPER**
4 **Repeal 03J .0107 and Replace with New Section 03J .0500**

5
6 **June 17, 2008**

7
8 **I. ISSUE**

9 Modify pound net rule in order to minimize potential interactions with sea turtles and address the use of
10 recreational shrimp pound nets.

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12 **II. ORIGINATION**

13 Sea Turtle Advisory Committee (STAC) recommendation in Sea Turtle Interactions with North Carolina
14 Fisheries report asks for review of pound net rule. The shrimp FMP notes the need to address recreational
15 shrimp pounds. The DMF Rules Advisory Team (RAT) noted numerous enforcement issues with the
16 existing rule wording.

17
18 **III. BACKGROUND**

19 The Sea Turtle Advisory Committee was formed by the North Carolina Marine Fisheries Commission
20 (NCMFC) in response to continuing problems with protected species interactions in fisheries throughout
21 North Carolina. The committee began by gathering relevant information pertaining to the many issues
22 surrounding federally and state protected sea turtles (ESA 1973) and North Carolina commercial and
23 recreational, *inshore fisheries*. Their final report that contained a number of recommendations was
24 approved by the MFC in 2007. Two recommendations for the flounder pound net fishery were 1) require
25 industry to catalogue gear time out of the water and report this to NCDMF; and 2) encourage the industry
26 to remove all webbing during closed seasons, and establish a recovery cost for pulling lost abandoned
27 gear.” The MFC at the February 2007 Business Meeting supported moving forward as follows: “ Have
28 DMF Rules Advisory Team (RAT) consider this and report back to the MFC.” The RAT discussed the rule
29 at their April 2007 meeting and formed a working group to overhaul the rule and incorporate new language
30 that would also address recreational shrimp pounds.

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32 In the Shrimp FMP a recommendation was made to “investigate the use of shrimp traps as RCGL gear
33 including size restrictions and location”. In the discussion of the issue it was noted “the gear is a shrimp
34 pound net and, by virtue of that definition, several obstructions exist to the use of that gear as a
35 “recreational” gear. The applicant must have a SCFL. The pound nets must not interfere with traditional
36 uses like shrimp trawling and gill netting as well as navigation. In the confined waters of the southern
37 areas of the state, where space is at a premium, these conditions are very limiting. Also, our present pound
38 net set rules require a 1000 yard distance between new pound nets. If several nets were to be applied for
39 along a certain bulkhead or shoreline, only one or two could be approved. These devices are often used in
40 front of waterfront houses by their owners in congested areas with houses lining the entire bank. In
41 addition, gill nets cannot be set within 200 yards of a functional pound net, so this will either prevent many
42 sets from being permitted (existing uses), or prevent gill nets from being set in the vicinity of the sets”. In
43 addressing the recreational shrimp pound it was noted that the RCGL rule O3.0302 Authorized Gear would
44 need to be modified.

45
46 **IV. AUTHORITY**

47 Authority G.S. 76-40, 113-134; 113-182; 113-182.1; 113-221; 143B-289.52;

48
49 **V. DISCUSSION**

50 The RAT working group started by reconfiguring the existing pound net rule into its primary component
51 topics. Each component was then reviewed, wording improved for clarity or to address issues raised by
52 the STAC or RAT. The RAT recommends the deletion of the existing rule 15A NCAC 03J .0107 and
53 starting anew with a new Section .0500 for pound nets in SUBCHAPTER 3J - NETS, POTS, DREDGES,
54 AND OTHER FISHING DEVICES. Each primary component of the current rule would be a standalone
55 rule under Section .0500. This concept is similar to the way the Lease and Franchise rules are organized.
56 Major proposed changes from current rules include:

- 1 o Limiting pound net set to a single fishery at a time, fishery designation may be changed but the
- 2 DMF must be notified within 72 hours.
- 3 o Addressing RCGL shrimp pounds, by requiring marking and identification and attendance at all
- 4 times, but not requiring a pound net permit for the set.
- 5 o Mandating a “clean up” period, when all netting would be required to be removed from the waters.
- 6 o Exempting shrimp pounds and crab pounds from the minimum 1,000 yard distance between pound
- 7 net sets.

8 Proposed changes will address the STAC and Shrimp FMP recommendations, as well as improve
 9 enforceability of other existing restrictions.

10
 11 To allow the use of shrimp pounds as RCGL gear rule O3.0302 Authorized Gear is modified to define the
 12 type of shrimp pound allowed and the conditions for its use. Finally, a number of other rules are proposed
 13 for modification to address changes to rule references that occur because of the proposed changes and new
 14 pound net rules.

15
 16 The draft rules were presented to the ACs and their actions are summarized below. All ACs voted for
 17 rule(s) adoption, but several recommended some changes. Rules were modified to address some of the AC
 18 comments.

19

	NEAC	Central AC	Inland AC	SEAC	Finfish AC	Crustacean AC
Position	Adopt Rules but did not approve of having to call in (.0505 a) various votes were taken on each rule	Adopt Rules but remove only declaring one net type w/o dissent	Adopt Rules w/o dissent	Adopt Rules w/o dissent concern w/ areas that RCGL shrimp pounds might be fished	Adopt Rules w/o dissent (no quorum)	Adopt Rules w/o dissent no defined shrimp or crab type could create enforcement loophole; reference rule 3L .0103 shrimp mesh requirement
Meeting Date	Jan. 2008	May 2008	May 2008	Jan. 2008	June 2008	June 2008

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VI. PROPOSED RULES

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Modify SUBCHAPTER 3J - NETS, POTS, DREDGES, AND OTHER FISHING DEVICES

24

SECTION .0100 – NET RULES GENERAL

25

15A NCAC 03J .0107 POUND NET SETS [AS PROPOSED IN HERRING FMP]

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15A NCAC 03J .0107 is proposed for REPEAL

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Strike all text in 15A NCAC 03J .0107

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30

Replace by

31

ADOPT New SECTION .0500 POUND NETS

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

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(a) For the purpose of this Section the following terms are hereby defined:

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(1) Pound Net Set Permit is defined as a Division authorization to set and fish a pound net set in a commercial fishing operation in a specified location in a specified fishery.

38

39

(2) Permit period. One year from the date of issuance of a new or renewal pound net set permit.

- 1 (3) Deployed pound net. Setting of any part of a pound net, except for a location identification stake
2 or for a pound net used in the Atlantic Ocean a location identification buoy placed at each end of a
3 proposed new location.
- 4 (4) Operational pound net set. A pound net set as defined in 15A NCAC 03I .0101 (29) and deployed
5 according to rules and permit conditions with net attached to stakes or anchors for the lead and
6 pound, including only a single pound in a multi-pound set, and a non-restricted opening leading
7 into the pound such that the set is able to catch and hold fish.
- 8 (5) Flounder pound net. A pound net set that produces a catch consisting of 50 percent or more
9 flounder by weight of the entire landed catch, excluding blue crabs or a **pound net set with all**
10 **pounds (holding pen) constructed of 4 inch stretch mesh or greater.**
- 11 (6) Shrimp pound net. A pound net set with all pounds (holding pen) constructed of stretch mesh
12 equal to or greater than 1 ¼ inch and less than or equal to 2 inch.
- 13 (b) It is unlawful for a pound net used in a commercial fishing operation to:
- 14 (1) Be deployed on a site without first obtaining a Pound Net Set Permit from the Fisheries Director;
15 (2) Fail to be operational for a minimum of 30 consecutive days during the pound net set permit
16 period unless a season for the fishery for which the pound net set is permitted is ended earlier due
17 to a quota being met;
- 18 (c) It is unlawful for a pound net set in a commercial fishing operation in coastal fishing waters to fail to:
- 19 (1) Have the permittee's identification legibly printed on a sign no less than six inches square,
20 securely attached to a stake at the permitted ends of each set at all times. For pound net sets in the
21 Atlantic Ocean using anchors instead of stakes, the set shall be identified with a yellow buoy,
22 which shall be of solid foam or other solid buoyant material no less than five inches in diameter
23 and no less than 11 inches in length. The permittee's identification shall be legibly printed on the
24 buoy. Such identification on signs or buoys shall include the Pound Net Set Permit number and
25 the permittee's last name and initials.
- 26 (2) Have yellow light reflective tape or yellow light reflective devices on each pound. The yellow
27 light reflective tape or yellow light reflective devices shall be affixed to a stake of at least three
28 inches in diameter on any outside corner of each pound, shall cover a vertical distance of not less
29 than 12 inches, and shall be visible from all directions.;
- 30 (3) Have a marked navigational opening at least 25 feet wide at the end of every third pound. Such
31 opening shall be marked with yellow light reflective tape or yellow light reflective devices on each
32 side of the opening. The yellow light reflective tape or yellow light reflective devices shall be
33 affixed to a stake of at least three inches in diameter, shall cover a vertical distance of not less than
34 12 inches, and shall be visible from all directions.
- 35 If a permittee notified of a violation under this Paragraph fails or refuses to take corrective action sufficient
36 to remedy the violation within 10 days of receiving notice of the violation, the Fisheries Director shall
37 revoke the permit.
- 38 (d) It is unlawful to use a Recreational Commercial Gear License (RCGL) shrimp pound net as defined in
39 15A NCAC 30 .0302 (a)(8) in coastal fishing waters unless the shrimp pound net is:
- 40 (1) Marked by attaching to the offshore lead, one floating buoy, any shade of hot pink in color, which
41 shall be of solid foam or other solid buoyant material no less than five inches in diameter and no
42 less than five inches in length. The owner shall be identified on the buoy by using an engraved
43 buoy or by attaching engraved metal or plastic tags to the buoy. Such identification shall include
44 owner's last name and initials and if a vessel is used, one of the following:
- 45 (A) Gear owner's current motor boat registration number; or
46 (B) Owner's U.S. vessel documentation name.
- 47 (2) Set a minimum of 100 yards from a RCGL shrimp pound net set or 300 yards from an operational
48 permitted shrimp pound net set.
- 49 (e) Escape Panels:
- 50 (1) The Fisheries Director may, by proclamation, require escape panels in pound net sets and may
51 impose any or all of the following requirements or restrictions on the use of escape panels:
- 52 (A) Specify size, number, and location.
53 (B) Specify mesh length, but not more than six inches.
54 (C) Specify time or season.
55 (D) Specify areas.

1 (2) It is unlawful to use flounder pound net sets without four unobstructed escape panels in each
2 pound. The escape panels shall be fastened to the bottom and corner ropes on each wall on the
3 side and back of the pound opposite the heart. The escape panels shall be a minimum mesh size of
4 five and one-half inches, hung on the diamond, and shall be at least six meshes high and eight
5 meshes long.

6 (f) During 1 December through 1 February the Director shall by proclamation establish time periods and
7 areas where it is unlawful to fail to remove all nets from pound net sets in commercial fishing operations in
8 internal coastal waters.

9 (g) It is unlawful within 30 days of abandonment of a permitted pound net set to fail to remove all stakes
10 and associated gear from coastal fishing waters. The responsible party for abandoned pound net gear may
11 be charged the costs incurred by the Division when the Division undertakes removal of the abandoned
12 pound net gear.

13
14 **15A NCAC 03J .0502 POUND NET SET PERMIT APPLICATION AND PROCESSING**

15 (a) All initial, renewal or transfer applications for Pound Net Set Permits, and the operation of such pound
16 net sets, shall comply with the general rules governing all permits as provided in 15A NCAC 03O .0502.
17 The procedures and requirements for obtaining permits are set forth in 15A NCAC 03O .0501.

18 (b) Applicants for Pound Net Set permits shall meet the following eligibility requirements as determined
19 by the Fisheries Director:

- 20 (1) Applicant is an individual and not a corporation, partnership, organization or other entity;
21 (2) Applicant has in the past complied with fisheries rules and laws and does not have any licenses or
22 privileges under suspension or revocation. In addition, a history of habitual fisheries violations
23 evidenced by eight or more convictions in ten years shall make an individual ineligible.
24 (3) Applicant has in the past complied with all permit conditions, rules and laws related to pound nets.
25 (4) Applicant holds proper valid license(s) and permit(s) necessary to fish the type of net indicated in
26 the application.

27 (c) Applications for Pound Net Set permits shall include the following:

- 28 (1) A base map provided by the Division indicating the proposed set location including an inset
29 vicinity map showing the location of the proposed set with detail sufficient to permit on-site
30 identification and location.
31 (2) Declaration of the type of pound net that will be deployed at the site. One of the following pound
32 net fisheries shall be specified:
33 (A) Flounder pound net set;
34 (B) Bait pound net set;
35 (C) Shrimp pound net set
36 (D) Blue crab pound net set;
37 (E) Other finfish pound net set.

38 (d) For proposed new location(s), the Fisheries Director shall issue a public notice of intent to consider
39 issuance of a Pound Net Set Permit allowing for public comment for 20 days, and after the comment
40 period, may hold public meetings to take comments on the proposed pound net set. If the Director does not
41 approve or deny the application within 90 days of receipt of a complete and verified application, the
42 application is deemed denied. The applicant shall be notified of denial in writing. Approval is conditional
43 based upon the applicant's continuing compliance with eligibility requirements set out in Subparagraph (e)
44 and specific conditions contained on the Pound Net Set Permit. The final decision to approve or deny the
45 Pound Net Set Permit application may be appealed by the applicant by filing a petition for a contested case
46 hearing, in writing, within 60 days from the date of mailing notice of such final decision to the applicant,
47 with the Office of Administrative Hearings.

48 (e) In order for a site to be deemed suitable for a pound net set the proposed set location shall meet the
49 following criteria as determined by the Fisheries Director:

- 50 (1) The proposed pound net set, either alone or when considered cumulatively with other existing
51 pound net sets in the area, shall not interfere with public navigation or with existing, traditional
52 uses of the area other than navigation, and shall not violate 15A NCAC 03J .0101 and .0102;
53 (2) The proposed pound net set shall not interfere with the rights of any riparian or littoral landowner,
54 including the construction or use of piers;
55 (3) The proposed flounder or other finfish pound net set shall not, by its proximate location, interfere
56 with existing pound net sets in the area. Flounder or other finfish pound net sets shall be a

- 1 minimum of 1,000 yards, as measured in a perpendicular direction, from any point on a line
- 2 following the permitted location of existing pound net sets; except
- 3 (A) in Chowan River as referenced in 15A NCAC 03J .0203;
- 4 (B) for renewal of pound net sets permitted prior to January 1, 2003;
- 5 (4) The proposed shrimp or blue crab pound net set shall be a minimum of 300 yards, as measured in
- 6 a perpendicular direction, from any point on a line following the permitted location of existing
- 7 pound net sets.
- 8 (5) The proposed pound net set is not located in Core Sound in areas designated in 15A NCAC 03R
- 9 .0113 except that only those Pound Net Set Permits valid within the specified area as of March 1,
- 10 1994, may be renewed or transferred subject to the requirements of this Rule; and
- 11 (6) The proposed pound net set is in the public interest.
- 12 (7) Issuance of the proposed Pound Net Set Permit shall be in compliance with management measures
- 13 adopted in fishery management plans.

14

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

16 An application for renewal of an existing Pound Net Set Permit shall be filed not less than 30 days prior to

17 the date of expiration of the existing permit, and shall not be processed unless filed by the permittee. The

18 Fisheries Director shall review the renewal application under the criteria for issuance of a new Pound Net

19 Set Permit. The Fisheries Director may hold public meetings and may conduct such investigations

20 necessary to determine if the permit should be renewed.

21

22 **15A NCAC 03J .0504 POUND NET SET PERMIT TRANSFER**

23 It is unlawful to transfer a Pound Net Set Permit without a completed application for transfer being

24 submitted to the Division not less than 45 days before the date of the transfer. Such application shall be

25 made by the proposed new permittee in writing and shall be accompanied by a copy of the current

26 permittee's permit and an application for a Pound Net Set Permit in the new permittee's name. The Fisheries

27 Director may hold a public meeting and conduct such investigations necessary to determine if the permit

28 should be transferred. The transferred permit expires on the same date as the initial permit. Upon death of

29 the permittee, the permit may be transferred to the Administrator/Executor of the estate of the permittee if

30 transferred within six months of the Administrator/Executor's qualification in accordance with Chapter 28A

31 of the North Carolina General Statutes. The Administrator/Executor shall provide a copy of the deceased

32 permittee's death certificate, a copy of letters of administration/letters testamentary and a list of eligible

33 immediate family members as defined in G.S. 113-168 to the Morehead City Office of the Division. Once

34 transferred to the Administrator/Executor, the Administrator/Executor may transfer the permit(s) to eligible

35 immediate family members of the deceased permittee. No transfer is effective until approved and

36 processed by the Division.

37

38 **15A NCAC 03J .0505 POUND NET SET PERMIT CONDITIONS**

- 39 (a) It is unlawful for the permittee:
- 40 (1) To fail to notify the Marine Patrol Communications Center within 72 hours by phone:
 - 41 (A) Of an operational pound net set. Notification shall include name of permittee, type of net,
 - 42 Pound Net Set Permit number, county where located, a specific location site, and how
 - 43 many pounds are in the set; and
 - 44 (B) Of a change to the type of net being set at the permitted site.
 - 45 (2) To make false notifications.
 - 46 (3) To fail to render the pound net set inoperable during any closed season for the type of fishery for
 - 47 which the pound net is permitted.
- 48 Failure to comply with this Paragraph shall be grounds for the Fisheries Director to revoke any and all
- 49 Pound Net Set Permits held by the permittee and for denial of any future applications for Pound Net Set
- 50 Permits.
- 51 (b) Pound net sets are subject to inspection at all times.
 - 52 (c) Daily reporting may be a condition of the permit for a pound net set for fisheries under a quota.
 - 53 (d) It is unlawful to fail to remove all pound net stakes and associated gear within 30 days after expiration
 - 54 of the permit or notice by the Fisheries Director that an existing Pound Net Set Permit has been revoked or
 - 55 denied.

1 **OTHER RULES THAT MAY BE IMPACTED BY CHANGES TO POUND NET RULE:**

2
3 **SUBCHAPTER 03J - NETS, POTS, DREDGES, AND OTHER FISHING DEVICES**

4 **SECTION .0100 – NET RULES GENERAL**

5 **15A NCAC 03J .0103 is proposed for amendment as follows:**

6
7 **15A NCAC 03J .0103 GILL NETS, SEINES, IDENTIFICATION, RESTRICTIONS**

8 (a) It is unlawful to use gill nets:

9 (1) With a mesh length less than 2 ½ inches.

10 (2) In internal waters from April 15 through December 15, with a mesh length 5 inches or
11 greater and less than 5 ½ inches.

12 (b) The Fisheries Director may, by proclamation, limit or prohibit the use of gill nets or seines in coastal
13 waters, or any portion thereof, or impose any or all of the following restrictions on the use of gill nets or
14 seines:

15 (1) Specify area.

16 (2) Specify season.

17 (3) Specify gill net mesh length.

18 (4) Specify means/methods.

19 (5) Specify net number and length.

20 (c) It is unlawful to use fixed or stationary gill nets in the Atlantic Ocean, drift gill nets in the Atlantic
21 Ocean for recreational purposes, or any gill nets in internal waters unless nets are marked by attaching to
22 them at each end two separate yellow buoys which shall be of solid foam or other solid buoyant material no
23 less than five inches in diameter and no less than five inches in length. Gill nets, which are not connected
24 together at the top line, are considered as individual nets, requiring two buoys at each end of each
25 individual net. Gill nets connected together at the top line are considered as a continuous net requiring two
26 buoys at each end of the continuous net. Any other marking buoys on gill nets used for recreational
27 purposes shall be yellow except one additional buoy, any shade of hot pink in color, constructed as
28 specified in this Paragraph, shall be added at each end of each individual net. Any other marking buoys on
29 gill nets used in commercial fishing operations shall be yellow except that one additional identification
30 buoy of any color or any combination of colors, except any shade of hot pink, may be used at either or both
31 ends. The owner shall be identified on a buoy on each end either by using engraved buoys or by attaching
32 engraved metal or plastic tags to the buoys. Such identification shall include owner's last name and initials
33 and if a vessel is used, one of the following:

34 (1) Owner's N.C. motor boat registration number, or

35 (2) Owner's U.S. vessel documentation name.

36 (d) It is unlawful to use gill nets:

37 (1) Within 200 yards of any **flounder or other finfish** pound net set with lead and either
38 pound or heart in use, except from August 15 through December 31 in all coastal fishing
39 waters of the Albemarle Sound, including its tributaries to the boundaries between coastal
40 and joint fishing waters, west of a line beginning at a point 36° 04.5184' N - 75° 47.9095'
41 W on Powell Point; running southerly to a point 35° 57.2681' N - 75° 48.3999' W on
42 Caroon Point, it is unlawful to use gill nets within 500 yards of any pound net set with
43 lead and either pound or heart in use;

44 (2) From March 1 through October 31 in the Intracoastal Waterway within 150 yards of any
45 railroad or highway bridge.

46 (e) It is unlawful to use gill nets within 100 feet either side of the center line of the Intracoastal Waterway
47 Channel south of the entrance to the Alligator-Pungo River Canal near Beacon "54" in Alligator River to
48 the South Carolina line, unless such net is used in accordance with the following conditions:

49 (1) No more than two gill nets per vessel may be used at any one time;

50 (2) Any net used must be attended by the fisherman from a vessel who shall at no time be
51 more than 100 yards from either net; and

52 (3) Any individual setting such nets shall remove them, when necessary, in sufficient time to
53 permit unrestricted boat navigation.

54 (f) It is unlawful to use drift gill nets in violation of 15A NCAC 03J .0101(2) and Paragraph (e) of this
55 Rule.

1 (g) It is unlawful to use unattended gill nets with a mesh length less than five inches in a commercial
2 fishing operation in the gill net attended areas designated in 15A NCAC 03R .0112(a).

3 (h) It is unlawful to use unattended gill nets with a mesh length less than five inches in a commercial
4 fishing operation from May 1 through October 31 in the internal coastal and joint waters of the state
5 designated in 15A NCAC 03R .0112(b).

6 (i) It is unlawful to use more than 3,000 yards of gill net with a mesh length 5 1/2 inches or greater per
7 vessel in internal waters regardless of the number of individuals involved.

8
9 *History Note: Authority G.S. 113-134; 113-173; 113-182; 113-221; 143B-289.52;*
10 *Eff. January 1, 1991;*
11 *Amended Eff. August 1, 1998; March 1, 1996; March 1, 1994; July 1, 1993; September 1,*
12 *1991;*
13 *Temporary Amendment Eff. October 2, 1999; July 1, 1999; October 22, 1998;*
14 *Amended Eff. April 1, 2001;*
15 *Temporary Amendment Eff. May 1, 2001;*
16 *Amended Eff. December 1, 2007; September 1, 2005; August 1, 2004; August 1, 2002.*

17
18 **SUBCHAPTER 030 – LICENSES, LEASES AND FRANCHISES**
19 **SECTION .0300 – RECREATIONAL COMMERCIAL GEAR LICENSES**
20 **15A NCAC 030 .0302 is proposed for amendment as follows:**

21
22 **15A NCAC 030 .0302 AUTHORIZED GEAR**

23 (a) The following are the only commercial fishing gear authorized (including restrictions) for use under a
24 valid Recreational Commercial Gear License:

- 25 (1) One seine 30 feet or over in length but not greater than 100 feet with a mesh length less
26 than 2 ½ inches when deployed or retrieved without the use of a vessel or any other
27 mechanical methods. A vessel may be used only to transport the seine;
- 28 (2) One shrimp trawl with a headrope not exceeding 26 feet in length per vessel. Mechanical
29 methods for retrieving otter trawls are not authorized for recreational purposes.
- 30 (3) With or without a vessel, five eel, fish, shrimp, or crab pots in any combination, except
31 only two pots of the five may be eel pots. Peeler pots are not authorized for recreational
32 purposes;
- 33 (4) One multiple hook or multiple bait trotline up to 100 feet in length;
- 34 (5) Gill Nets:
- 35 (A) Not more than 100 yards of gill nets with a mesh length equal to or greater than
36 2 ½ inches except as provided in (C) of this Subparagraph. Attendance
37 shall be required at all times;
- 38 (B) Not more than 100 yards of gill nets with a mesh length equal to or greater than
39 5 ½ inches except as provided in (C) of this Subparagraph. Attendance shall be
40 required when used from one hour after sunrise through one hour before sunset
41 in internal coastal fishing waters east and north of the Highway 58 Bridge at
42 Emerald Isle and in the Atlantic Ocean east and north of 77° 04.0000' W.
43 Attendance shall be required at all times in internal coastal fishing waters west
44 and south of the Highway 58 Bridge at Emerald Isle and in the Atlantic Ocean
45 west and south of 77° 04.0000' W; and
- 46 (C) Not more than 100 yards of gill net may be used at any one time, except that
47 when two or more Recreational Commercial Gear License holders are on board,
48 a maximum of 200 yards may be used from a vessel;
- 49 (D) It is unlawful to possess aboard a vessel more than 100 yards of gill nets with a
50 mesh length less than 5 ½ inches and more than 100 yards of gill nets with a
51 mesh length equal to or greater than 5 ½ inches identified as recreational
52 commercial fishing equipment when only one Recreational Commercial Gear
53 License holder is on board. It is unlawful to possess aboard a vessel more than
54 200 yards of gill nets with a mesh length less than 5 ½ inches and more than 200
55 yards of gill nets with a mesh length equal to or greater than 5 ½ inches

1 identified as recreational commercial fishing equipment when two or more
2 Recreational Commercial Gear License holders are on board;

3 (6) A hand-operated device generating pulsating electrical current for the taking of catfish in
4 the area described in 15A NCAC 03J .0304;

5 (7) Skimmer trawls not exceeding 26 feet in total combined width.

6 (8) One pound net used to take shrimp with each lead 10 feet or less in length and with a
7 minimum lead net mesh of 1 1/2 inches, and enclosures constructed of net mesh of 1 1/4
8 inches or greater and with all dimensions being 36 inches or less. Attendance is required
9 at all times and all gear must be removed from the water when not being fished. Gear is
10 to be marked and set as specified in 15A NCAC 03J .0501.

11 (b) It is unlawful to use more than the quantity of authorized gear specified in Subparagraphs (a)(1)
12 through ~~(a)(7)~~ (a)(8) of this Rule, regardless of the number of individuals aboard a vessel possessing a valid
13 Recreational Commercial Gear License.

14 (c) It is unlawful for a person to violate the restrictions of or use gear other than that authorized by
15 Paragraph (a) of this Rule.

16 (d) Unless otherwise provided, this Rule does not exempt Recreational Commercial Gear License holders
17 from the provisions of other applicable rules of the Marine Fisheries Commission or provisions of
18 proclamations issued by the Fisheries Director as authorized by the Marine Fisheries Commission.

19
20 *History Note: Authority G.S. 113-134; 113-173;*
21 *Temporary Adoption Eff. August 9, 1994, for a period of 180 days or until the permanent*
22 *rule becomes effective, whichever is sooner;*
23 *Eff. February 1, 1995;*
24 *Temporary Amendment Eff. August 1, 1999; July 1, 1999;*
25 *Amended Eff. August 1, 2000;*
26 *Temporary Amendment Eff. August 1, 2000;*
27 *Amended Eff. July 1, 2006; November 1, 2005; August 1, 2002.*
28

29 **SUBCHAPTER 030 – LICENSES, LEASES AND FRANCHISES**

30 **SECTION .0500 – PERMITS**

31 **15A NCAC 030 .0501 is proposed for amendment as follows:**

32
33 **15A NCAC 030 .0501 PROCEDURES AND REQUIREMENTS TO OBTAIN PERMITS**

34 (a) To obtain any Marine Fisheries permit, the following information is required for proper application
35 from the applicant, a responsible party or person holding a power of attorney:

36 (1) Full name, physical address, mailing address, date of birth, and signature of the applicant
37 on the application. If the applicant is not appearing before a license agent or the
38 designated Division contact, the applicant's signature on the application shall be
39 notarized;

40 (2) Current picture identification of applicant, responsible party and, when applicable, person
41 holding a power of attorney; acceptable forms of picture identification are driver's
42 license, current North Carolina Identification card issued by the North Carolina Division
43 of Motor Vehicles, military identification card, resident alien card (green card) or
44 passport or if applying by mail, a copy thereof;

45 (3) Full names and dates of birth of designees of the applicant who shall be acting under the
46 requested permit where that type permit requires listing of designees;

47 (4) Certification that the applicant and his designees do not have four or more marine or
48 estuarine resource convictions during the previous three years;

49 (5) For permit applications from business entities, the following documentation is required:

50 (A) Business Name;

51 (B) Type of Business Entity: Corporation, partnership, or sole proprietorship;

52 (C) Name, address and phone number of responsible party and other identifying
53 information required by this Subchapter or rules related to a specific permit;

54 (D) For a corporation, current articles of incorporation and a current list of corporate
55 officers when applying for a permit in a corporate name;

- 1 (E) For a partnership, if the partnership is established by a written partnership
2 agreement, a current copy of such agreement shall be provided when applying
3 for a permit;
- 4 (F) For business entities, other than corporations, copies of current assumed name
5 statements if filed and copies of current business privilege tax certificates, if
6 applicable.
- 7 (6) Additional information as required for specific permits.
- 8 (b) A permittee shall hold a valid Standard or Retired Standard Commercial Fishing License in order to
9 hold a:
- 10 (1) Pound Net Permit;
- 11 (2) Permit to Waive the Requirement to Use Turtle Excluder Devices in the Atlantic Ocean;
12 or
- 13 (3) Atlantic Ocean Striped Bass Commercial Gear Permit.
- 14 (c) A permittee and his designees shall hold a valid Standard or Retired Standard Commercial Fishing
15 License with a Shellfish Endorsement or a Shellfish License in order to hold a:
- 16 (1) Permit to Transplant (Prohibited) Polluted Shellfish;
- 17 (2) Permit to Transplant Oysters from Seed Management Areas;
- 18 (3) Permit to Use Mechanical Methods for Oysters or Clams on Shellfish Leases or
19 Franchises;
- 20 (4) Permit to Harvest Rangia Clams from Prohibited (Polluted) Areas; or
- 21 (5) Depuration Permit.
- 22 (d) A permittee shall hold a valid:
- 23 (1) Fish Dealer License in the proper category in order to hold Dealer Permits for Monitoring
24 Fisheries Under a Quota/Allocation for that category; and
- 25 (2) Standard Commercial Fishing License with a Shellfish Endorsement, Retired Standard
26 Commercial Fishing License with a Shellfish Endorsement or a Shellfish License in order
27 to harvest clams or oysters for depuration.
- 28 (e) Aquaculture Operations/Collection Permits:
- 29 (1) A permittee shall hold a valid Aquaculture Operation Permit issued by the Fisheries
30 Director to hold an Aquaculture Collection Permit.
- 31 (2) The permittee or designees shall hold appropriate licenses from the Division of Marine
32 Fisheries for the species harvested and the gear used under the Aquaculture Collection
33 Permit.
- 34 (f) Atlantic Ocean Striped Bass Commercial Gear Permit:
- 35 (1) Application for an Atlantic Ocean Striped Bass Commercial Gear Permit must be made
36 prior to November 1 of each year. A person shall declare one of the following gears for
37 an initial Atlantic Ocean Striped Bass Commercial Gear Permit and at intervals of three
38 consecutive license years thereafter:
- 39 (A) gill net;
- 40 (B) trawl; or
- 41 (C) beach seine.
- 42 For the purpose of this Rule, a beach seine is defined as a swipe net constructed of multi-
43 filament or multi-fiber webbing fished from the ocean beach that is deployed from a
44 vessel launched from the ocean beach where the fishing operation takes place.
- 45 Gear declarations are binding on the permittee for three consecutive license years without
46 regard to subsequent annual permit issuance.
- 47 (2) A person is not eligible for more than one Atlantic Ocean Striped Bass Commercial Gear
48 Permit regardless of the number of Standard Commercial Fishing Licenses, Retired
49 Standard Commercial Fishing Licenses or assignments held by the person.
- 50 (3) The annual, nonrefundable permit fee is ten dollars (\$10.00).
- 51 (g) Applications submitted without complete and required information shall not be processed until all
52 required information has been submitted. Incomplete applications shall be returned to the applicant with
53 deficiency in the application so noted.
- 54 (h) A permit shall be issued only after the application has been deemed complete by the Division of
55 Marine Fisheries and the applicant certifies to fully abide by the permit general and specific conditions

1 established under 15A NCAC ~~03J .0107~~, 03J .0501, 03J .0505, 03K .0103, 03K .0104, 03K .0107, 03K
2 .0206, 03K .0303, 03K .0401, 03O .0502, and 03O .0503 as applicable to the requested permit.

3 (i) The Fisheries Director, or his agent may evaluate the following in determining whether to issue, modify
4 or renew a permit:

- 5 (1) Potential threats to public health or marine and estuarine resources regulated by the
6 Marine Fisheries Commission;
- 7 (2) Applicant's demonstration of a valid justification for the permit and a showing of
8 responsibility as determined by the Fisheries Director;
- 9 (3) Applicant's history of habitual fisheries violations evidenced by eight or more violations
10 in 10 years.

11 (j) The applicant shall be notified in writing of the denial or modification of any permit request and the
12 reasons therefor. The applicant may submit further information, or reasons why the permit should not be
13 denied or modified.

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

20 (l) To renew a permit, the permittee shall file a certification that the information in the original application
21 is still valid, or a statement of all changes in the original application and any additional information
22 required by the Division of Marine Fisheries.

23 (m) For initial or renewal permits, processing time for permits may be up to 30 days unless otherwise
24 specified in this Chapter.

25 (n) It is unlawful for a permit holder to fail to notify the Division of Marine Fisheries within 30 days of a
26 change of name or address.

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

29 (p) Permit applications shall be available at all Division Offices.

30
31 *History Note: Authority G.S. 113-134; 113-169.1; 113-169.3; 113-182; 113-210; 143B-289.52;*
32 *Temporary Adoption Eff. September 1, 2000; May 1, 2000;*
33 *Eff. April 1, 2001;*
34 *Temporary Amendment Eff. October 1, 2001;*
35 *Amended Eff. December 1, 2007; September 1, 2005; April 1, 2003; August 1, 2002.*
36

37 **15A NCAC 03O .0502 is proposed for amendment as follows:**

38
39 **15A NCAC 03O .0502 PERMIT CONDITIONS; GENERAL**

40 The following conditions apply to all permits issued by the Fisheries Director:

- 41 (1) it is unlawful to operate under the permit except in areas, at times, and under conditions
42 specified on the permit;
- 43 (2) it is unlawful to operate under a permit without having the permit or copy thereof in
44 possession of the permittee or his or her designees at all times of operation and the permit
45 or copy thereof shall be ready at hand for inspection, except for Pound Net Permits;
- 46 (3) it is unlawful to operate under a permit without having a current picture identification in
47 possession and ready at hand for inspection;
- 48 (4) it is unlawful to refuse to allow inspection and sampling of a permitted activity by an
49 agent of the Division;
- 50 (5) it is unlawful to fail to provide complete and accurate information requested by the
51 Division in connection with the permitted activity;
- 52 (6) it is unlawful to hold a permit issued by the Fisheries Director when not eligible to hold
53 any license required as a condition for that permit as stated in 15A NCAC 03O .0501;
- 54 (7) it is unlawful to fail to provide reports within the timeframe required by the specific
55 permit conditions;

- 1 (8) it is unlawful to fail to keep such records and accounts as required by the rules in this
 2 Chapter for determination of conservation policy, equitable and efficient administration
 3 and enforcement, or promotion of commercial or recreational fisheries;
 4 (9) it is unlawful to assign or transfer permits issued by the Fisheries Director, except for
 5 Pound Net Permits as authorized by 15A NCAC ~~03J.0107(h)~~; ~~03J.0504~~;
 6 (10) the Fisheries Director, or his agent, may, by conditions of the permit, specify any or all of
 7 the following for the permitted purposes:
 8 (a) species;
 9 (b) quantity or size;
 10 (c) time period;
 11 (e) location;
 12 (d) means and methods;
 13 (f) disposition of resources;
 14 (g) marking requirements; or
 15 (h) harvest conditions.
 16 (11) unless specifically stated as a condition on the permit, all statutes, rules and
 17 proclamations shall apply to the permittee and his or her designees.
 18 (12) as a condition of accepting the permit from the Fisheries Director, the permittee agrees to
 19 abide by all conditions of the permit and agrees that if specific conditions of the permit,
 20 as identified on the permit, are violated or if false information was provided in the
 21 application for initial issuance, renewal or transfer, the permit may be suspended or
 22 revoked by the Fisheries Director.
 23

24 *History Note: Authority G.S. 113-134; 113-169.1; 113-182; 113-210; 143B-289.52;*
 25 *Temporary Adoption Eff. May 1, 2000;*
 26 *Eff. April 1, 2001;*
 27 *Amended Eff. September 1, 2005.*
 28

29 **15A NCAC 03O .0503 is proposed for amendment as follows:**

30
 31 **15A NCAC 03O .0503 PERMIT CONDITIONS; SPECIFIC**

32 (a) Horseshoe Crab Biomedical Use Permit:

- 33 (1) It is unlawful to use horseshoe crabs for biomedical purposes without first obtaining a
 34 permit.
 35 (2) It is unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit
 36 to fail to submit a report on the use of horseshoe crabs to the Division of Marine Fisheries
 37 due on February 1 of each year. Such reports shall be filed on forms provided by the
 38 Division and shall include a monthly account of the number of crabs harvested, statement
 39 of percent mortality up to the point of release, and a certification that harvested horseshoe
 40 crabs are solely used by the biomedical facility and not for other purposes.
 41 (3) It is unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit
 42 to fail to comply with the Atlantic States Marine Fisheries Commission Horseshoe Crab
 43 Fisheries Management Plan monitoring and tagging requirements for horseshoe crabs.
 44 Copies of this plan are available from the Atlantic States Marine Fisheries Commission,
 45 1444 Eye Street, NW, 6th Floor, Washington, DC 20005, (202) 289-6400, or the Division
 46 of Marine Fisheries' Morehead City Office.

47 (b) Dealers Permits for Monitoring Fisheries under a Quota/Allocation:

- 48 (1) During the commercial season opened by proclamation or rule for the fishery for which a
 49 Dealers Permit for Monitoring Fisheries under a Quota/Allocation permit is issued, it is
 50 unlawful for fish dealers issued such permit to fail to:
 51 (A) Fax or send via electronic mail by noon daily, on forms provided by the
 52 Division, the previous day's landings for the permitted fishery to the dealer
 53 contact designated on the permit. Landings for Fridays or Saturdays shall be
 54 submitted on the following Monday. If the dealer is unable to fax or electronic
 55 mail the required information, the permittee shall call in the previous day's

- 1 landings to the dealer contact designated on the permit but shall maintain a log
2 furnished by the Division;
- 3 (B) Submit the required log to the Division upon request or no later than five days
4 after the close of the season for the fishery permitted;
- 5 (C) Maintain faxes and other related documentation in accordance with 15A NCAC
6 03I .0114;
- 7 (D) Contact the dealer contact daily regardless of whether or not a transaction for the
8 fishery for which a dealer is permitted occurred;
- 9 (E) Record the permanent dealer identification number on the bill of lading or
10 receipt for each transaction or shipment from the permitted fishery.
- 11 (2) Striped Bass Dealer Permit:
- 12 (A) It is unlawful for a fish dealer to possess, buy, sell or offer for sale striped bass
13 taken from the following areas without first obtaining a Striped Bass Dealer
14 Permit validated for the applicable harvest area:
- 15 (i) Atlantic Ocean;
- 16 (ii) Albemarle Sound Management Area as designated in 15A NCAC 03R
17 .0201; and
- 18 (iii) The joint and coastal fishing waters of the Central/Southern
19 Management Area as designated in 15A NCAC 03R .0201.
- 20 (B) No permittee shall possess, buy, sell or offer for sale striped bass taken from the
21 harvest areas opened by proclamation without having a North Carolina Division
22 of Marine Fisheries issued valid tag for the applicable area affixed through the
23 mouth and gill cover, or, in the case of striped bass imported from other states, a
24 similar tag that is issued for striped bass in the state of origin. North Carolina
25 Division of Marine Fisheries striped bass tags shall not be bought, sold, offered
26 for sale, or transferred. Tags shall be obtained at the North Carolina Division of
27 Marine Fisheries Offices. The Division of Marine Fisheries shall specify the
28 quantity of tags to be issued based on historical striped bass landings. It is
29 unlawful for the permittee to fail to surrender unused tags to the Division upon
30 request.
- 31 (3) Albemarle Sound Management Area for River Herring Dealer Permit: It is unlawful to
32 possess, buy, sell or offer for sale river herring taken from the following area without first
33 obtaining an Albemarle Sound Management Area for River Herring Dealer Permit:
34 Albemarle Sound Management Area for River Herring is defined in 15A NCAC 03J
35 .0209.
- 36 (4) Atlantic Ocean Flounder Dealer Permit:
- 37 (A) It is unlawful for a Fish Dealer to allow vessels holding a valid License to Land
38 Flounder from the Atlantic Ocean to land more than 100 pounds of flounder
39 from a single transaction at their licensed location during the open season
40 without first obtaining an Atlantic Ocean Flounder Dealer Permit. The licensed
41 location shall be specified on the Atlantic Ocean Flounder Dealer Permit and
42 only one location per permit shall be allowed.
- 43 (B) It is unlawful for a Fish Dealer to possess, buy, sell, or offer for sale more than
44 100 pounds of flounder from a single transaction from the Atlantic Ocean
45 without first obtaining an Atlantic Ocean Flounder Dealer Permit.
- 46 (c) Blue Crab Shedding Permit: It is unlawful to possess more than 50 blue crabs in a shedding operation
47 without first obtaining a Blue Crab Shedding Permit from the Division of Marine Fisheries.
- 48 (d) Permit to Waive the Requirement to Use Turtle Excluder Devices in the Atlantic Ocean:
- 49 (1) It is unlawful to trawl for shrimp in the Atlantic Ocean without Turtle Excluder Devices
50 installed in trawls within one nautical mile of the shore from Browns Inlet (34° 35.7000'
51 N latitude) to Rich's Inlet (34° 17.6000' N latitude) without a valid Permit to Waive the
52 Requirement to Use Turtle Excluder Devices in the Atlantic Ocean when allowed by
53 proclamation from April 1 through November 30.
- 54 (2) It is unlawful to tow for more than 55 minutes from April 1 through October 31 and 75
55 minutes from November 1 through November 30 in this area when working under this

- 1 permit. Tow time begins when the doors enter the water and ends when the doors exit the
2 water.
- 3 (3) It is unlawful to fail to empty the contents of each net at the end of each tow.
- 4 (4) It is unlawful to refuse to take observers upon request by the Division of Marine Fisheries
5 or the National Marine Fisheries Service.
- 6 (5) It is unlawful to fail to report any sea turtle captured. Reports shall be made within 24
7 hours of the capture to the Marine Patrol Communications Center by phone. All turtles
8 taken incidental to trawling shall be handled and resuscitated in accordance with
9 requirements specified in 50 CFR 223.206, copies of which are available via the Internet
10 at www.nmfs.gov and at the Division of Marine Fisheries, 127 Cardinal Drive Extension,
11 Wilmington, North Carolina 28405.
- 12 (e) Pound Net Set Permits. Rules setting forth specific conditions for pound net sets are set forth in 15A
13 NCAC ~~03J.0107~~. 03J.0505.
- 14 (f) Aquaculture Operations/Collection Permits:
- 15 (1) It is unlawful to conduct aquaculture operations utilizing marine and estuarine resources
16 without first securing an Aquaculture Operation Permit from the Fisheries Director.
- 17 (2) It is unlawful:
- 18 (A) To take marine and estuarine resources from coastal fishing waters for
19 aquaculture purposes without first obtaining an Aquaculture Collection Permit
20 from the Fisheries Director.
- 21 (B) To sell, or use for any purpose not related to North Carolina aquaculture, marine
22 and estuarine resources taken under an Aquaculture Collection Permit.
- 23 (C) To fail to submit to the Fisheries Director an annual report due on December 1
24 of each year on the form provided by the Division the amount and disposition of
25 marine and estuarine resources collected under authority of this permit.
- 26 (3) Lawfully permitted shellfish relaying activities authorized by 15A NCAC 03K .0103 and
27 .0104 are exempt from requirements to have an Aquaculture Operation or Collection
28 Permit issued by the Fisheries Director.
- 29 (4) Aquaculture Operations/Collection Permits shall be issued or renewed on a calendar year
30 basis.
- 31 (5) It is unlawful to fail to provide the Division of Marine Fisheries with a listing of all
32 designees who will be acting under an Aquaculture Collection Permit at the time of
33 application.
- 34 (g) Scientific or Educational Collection Permit:
- 35 (1) It is unlawful for individuals or agencies seeking exemptions from license, rule,
36 proclamation or statutory requirements to collect for scientific or educational purposes as
37 approved by the Division of Marine Fisheries any marine and estuarine species without
38 first securing a Scientific or Educational Collection Permit.
- 39 (2) It is unlawful for persons who have been issued a Scientific or Educational Collection
40 Permit to fail to submit a report on collections to the Division of Marine Fisheries due on
41 December 1 of each year unless otherwise specified on the permit. The reports shall be
42 filed on forms provided by the Division. Scientific or Educational Collection Permits
43 shall be issued on a calendar year basis.
- 44 (3) It is unlawful to sell marine and estuarine species taken under a Scientific or Educational
45 Collection Permit:
- 46 (A) without the required license(s) for such sale;
- 47 (B) to anyone other than a licensed North Carolina fish dealer; and
- 48 (C) without authorization stated on the permit for such sale.
- 49 (4) It is unlawful to fail to provide the Division of Marine Fisheries a listing of all designees
50 who will be acting under Scientific or Educational Collection Permits at the time of
51 application.
- 52 (5) The permittee or designees utilizing the permit shall call or fax the Division of Marine
53 Fisheries Communications Center not later than 24 hours prior to use of the permit,
54 specifying activities and location.
- 55 (h) Under Dock Oyster Culture Permit:

- 1 (1) It is unlawful to cultivate oysters in containers under docks for personal consumption
2 without first obtaining an Under Dock Oyster Culture Permit.
3 (2) An Under Dock Oyster Culture Permit shall only be issued in accordance with provisions
4 set forth in G.S. 113-210(c).
5 (3) The applicant shall complete and submit an examination, with a minimum of 70 percent
6 correct answers, based on an educational package provided by the Division of Marine
7 Fisheries pursuant to G.S. 113-210(j). The examination demonstrates the applicant's
8 knowledge of:
9 (A) the application process;
10 (B) permit criteria;
11 (C) basic oyster biology and culture techniques;
12 (D) shellfish harvest area closures due to pollution;
13 (E) safe handling practices;
14 (F) permit conditions; and
15 (G) permit revocation criteria.
16 (4) Action by an Under Dock Oyster Culture Permit holder to encroach on or usurp the legal
17 rights of the public to access public trust resources in coastal fishing waters shall result in
18 permit revocation.
19 (i) Atlantic Ocean Striped Bass Commercial Gear Permit:
20 (1) It is unlawful to take striped bass from the Atlantic Ocean in a commercial fishing
21 operation without first obtaining an Atlantic Ocean Striped Bass Commercial Gear
22 Permit.
23 (2) It is unlawful to use a single Standard Commercial Fishing License, including
24 assignments, to obtain more than one Atlantic Ocean Striped Bass Commercial Gear
25 Permit during a license year.
26 (j) Coastal Recreational Fishing License Exemption Permit:
27 (1) It is unlawful for the responsible party seeking exemption from recreational fishing
28 license requirements for eligible individuals to conduct an organized fishing event held in
29 coastal or joint fishing waters without first obtaining a Coastal Recreational Fishing
30 License Exemption Permit.
31 (2) The Coastal Recreational Fishing License Exemption Permit shall only be issued for
32 recreational fishing activity conducted solely for the participation and benefit of one of
33 the following groups of eligible individuals:
34 (A) Individuals with physical or mental limitations;
35 (B) Members of the United States Armed Forces and their dependents, upon
36 presentation of a valid military identification card, for military appreciation;
37 (C) Individuals receiving instruction on recreational fishing techniques and
38 conservation practices from employees of state or federal agencies, or
39 instructors affiliated with educational institutions; and
40 (D) Disadvantaged youths.
41 (3) The Coastal Recreational Fishing License Exemption Permit is valid for the date(s), time
42 and physical location of the organized fishing event for which the exemption is granted
43 and the time period shall not exceed one year from the date of issuance.
44 (4) The Coastal Recreational Fishing License Exemption Permit shall only be issued when
45 all of the following, in addition to the information required in 15A NCAC 03O .0501, is
46 submitted to the Fisheries Director in writing a minimum of 30 days prior to the event:
47 (A) The name, date(s), time and physical location of the event;
48 (B) Documentation that substantiates local, state or federal involvement in the
49 organized fishing event, if applicable;
50 (C) The cost or requirements, if any, for an individual to participate in the event; and
51 (D) An estimate of the number of participants.

52
53 *History Note:* Authority G.S. 113-134; 113-169.1; 113-169.3; 113-182; 113-210; 143B-289.52;
54 Temporary Adoption Eff. September 1, 2000; August 1, 2000; May 1, 2000;
55 Eff. April 1, 2001;

1 *Amended Eff. December 1, 2007; September 1, 2005; October 1, 2004; August 1, 2004;*
2 *August 1, 2002.*

3
4 **SUBCHAPTER 03R - DESCRIPTIVE BOUNDARIES**

5 **SECTION .0100 - DESCRIPTIVE BOUNDARIES**

6 **15A NCAC 03R .0113 is proposed for amendment as follows:**

7
8 **3R .0113 POUND NET SET PROHIBITED AREAS**

9 The pound net set prohibited areas referenced in 15A NCAC ~~03J .0107(j)~~ 03J .0502 are delineated in the
10 following coastal water areas of Core Sound:

- 11 (1) The area described by a line beginning at a point 34° 58.9130' N – 76° 15.0878' W on the
12 shoreline north of Great Ditch; running southwesterly to a point 34° 58.6399' N - 76°
13 15.3694' W on the south shore of Great Ditch; following the shoreline to a point 34°
14 58.4957' N – 76° 15.8093' W on Hog Island Point; running southwesterly to a point 34°
15 58.2318' N – 76° 16.0913' W near Marker "3"; running southeasterly to a point 34°
16 58.0773' N - 76° 15.6134' W near Beacon "2"; running southeasterly to a point 34°
17 57.3120' N – 76° 13.7113' W near Beacon "13"; running northeasterly to a point 34°
18 58.5157' N – 76° 13.2389' W near Beacon "11"; running northwesterly to the point of
19 beginning;
- 20 (2) The area described by a line beginning in Cedar Island Bay at a point 34° 58.2318' N –
21 76° 16.0913' W near Marker "3"; running southwesterly to a point 34° 57.4914' N – 76°
22 16.5861' W on Cedar Island Point; running southeasterly to a point 34° 56.3436' N – 76°
23 15.6069' W near Beacon "18"; running northerly to a point 34° 58.0773' N – 76° 15.6134'
24 W near Beacon "2"; running northwesterly to the point of beginning;
- 25 (3) The area described by a line beginning on the north shore of Lewis Creek at a point 34°
26 56.9654' N – 76° 16.7395' W; running easterly to a point 34° 56.3436' N – 76° 15.6069'
27 W near Beacon "18"; running southwesterly to a point 34° 54.9904' N – 76° 16.5888' W
28 near Beacon "19"; running southwesterly following the six foot contour to a point 34°
29 53.7599' N – 76° 18.1613' W; running southwesterly to a point 34° 50.6266' N – 76°
30 22.0449' W near Beacon "27"; running westerly to a point 34° 50.5496' N – 76° 22.9284'
31 W near Beacon "28"; running southwesterly to a point 34° 49.1889' N – 76° 24.2010' W
32 near Beacon "29"; running westerly to a point 34° 48.9514' N – 76° 24.8780' W near
33 Beacon "31"; running southwesterly to a point 34° 45.0942' N – 76° 27.9533' W near
34 Beacon "35"; running southwesterly to a point 34° 43.4896' N – 76° 28.9411' W near
35 Beacon "37A"; running westerly to a point 34° 43.7782' N – 76° 30.0187' W on Bells
36 Point; running northerly along the shoreline of Bells Island to a point 34° 44.2190' N -
37 76° 30.1336' W; running northerly to a point 34° 44.2568' N – 76° 30.1419' W; running
38 northerly along the shoreline to a point 34° 44.6759' N - 76° 30.1712' W; running
39 northeasterly to a point 34° 45.2824' N - 76° 29.1636' W on Davis Island; running
40 northeasterly to a point 34° 45.8196' N - 76° 28.7530' W on the north side of Spit Bay;
41 running northeasterly along the shoreline to a point 34° 48.7982' N - 76° 26.9741' W on
42 the south shore of Oyster Creek; running northeasterly to a point 34° 48.9701' N - 76°
43 26.6299' W on the north shore of Oyster Creek; running northeasterly along the shoreline
44 to a point 34° 50.4311' N - 76° 24.9934' W on the south shore of Fulcher Creek; running
45 northeasterly to point 34° 50.4911' N - 76° 24.9540' W on the north shore of Fulcher
46 Creek; running northeasterly along the shoreline to a point 34° 50.9934' N - 76° 24.7727'
47 W on the south shore of Willis Creek; running northeasterly to a point 34° 51.1866' N -
48 76° 24.5416' W on the south shore of Nelson Bay; running easterly to a point 34°
49 51.4437' N - 76° 23.6151' W on Drum Point; running easterly along the shoreline to a
50 point 34° 51.4462' N - 76° 22.9669' W at Mill Point; running northeasterly to a point 34°
51 52.4143' N - 76° 20.8557' W on Steep Point; running northeasterly along the shoreline to
52 a point 34° 54.3782' N - 76° 18.8575' W on Hall Point; running northeasterly to a point
53 34° 55.4257' N - 76° 17.8541' W on Lookout Point; running northeasterly along the
54 shoreline to a point 34° 55.7679' N - 76° 17.7021' W on the south shore of Rumley Bay;

1 running northeasterly to a point 34° 56.2513' N - 76° 17.1858' W on the north shore of
2 Rumley Bay; running northeasterly along the shoreline to the point of beginning.
3

4 *History Note:* Authority G.S. 113-134; 113-181; 113-182; 143B-289.52;
5 Eff. August 1, 2004.
6
7

8 **VII. RECOMMENDATION**

9 DMF recommends the MFC give Notice of Text at their June 2008 meeting.
10

11
12 Prepared by K. West etal
13 12 July 2007
14 Modified 10 October 2007
15 Modified 30 October 2007
16 Modified 02 November 2007
17 Modified 10 June 2008
18 Modified 17 June 2008
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NOTICE OF TEXT ATTACHMENT

Repeal Rule cited as 15A NCAC 03J .0107 Pound Nets

Adopt Rules 15A NCAC 03J .0501, 03J .0502, 03J .0503, 03J .0504, 03J .0505

Establish procedure for issuance of pound net set permits, renewals, and transfers, as well as specific standards and conditions for pound nets in coastal fishing waters. Major proposed changes from current rule include: Limit pound net set to a single fishery at a time, fishery designation may be changed but the DMF must be notified within 72 hours; Address Recreational Commercial Gear License shrimp pounds, by requiring marking and identification and attendance at all times, but not requiring a pound net permit for the set; Mandate a “clean up” period, when all pound net netting would be required to be removed from the waters; Exempt shrimp pounds and crab pounds from the minimum 1,000 yard distance between pound net sets. Proposed changes address the Shrimp FMP recommendation on shrimp pounds for recreational use and institute measures to reduce interactions with sea turtle, as well as improve enforceability of existing restrictions.

Amend Rule 15A NCAC 03O .0302 Recreational Commercial Gear License Authorized Gear
Authorizes a shrimp pound as a gear authorized (including restrictions) for use under a valid Recreational Commercial Gear License,

Amend Rule 15A NCAC 03J.0103 Gill nets, Seines, Identification, and Restrictions
Clarify gill nets in the Albemarle Sound area must adhere to the minimum 200 yard distance restriction for only flounder or other finfish pound net sets with lead and either pound or heart in use.

Amend Rules 15A NCAC 03O .0501, 03O .0502, 03O .0503, 03R .0113
Correct existing rule references to correspond to the proposed new rules for pound nets (03J Section .0500).