

15A NCAC 03O .0205 SHELLFISH LEASE RENEWAL

(a) Shellfish lease renewal applications shall be provided to lease holders by the Division of Marine Fisheries as follows:

- (1) for a shellfish bottom lease, a renewal application shall be provided in January of the year of expiration.
- (2) for a shellfish water column lease, a renewal application shall be provided at least 90 days prior to the expiration date.

(b) A shellfish lease renewal application shall be accompanied by a Shellfish Lease Management Plan that meets the requirements of Rule .0202 of this Section. The non-refundable filing fee set forth in G.S. 113-202(j) shall accompany each renewal application for a shellfish bottom lease.

(c) To be eligible to renew a shellfish lease, persons holding any acres under a shellfish lease or franchise shall meet the requirements established in Rules .0201 and .0204 of this Section and 15A NCAC 03O .0503(a).

(d) If it is determined, after due notice to the shellfish lease holder and after opportunity for the lease holder to be heard, that the lease holder has not complied with the requirements of this Section or that the lease as issued is inconsistent with this Section, the Secretary may decline to renew, at the end of the current terms, any lease. The shellfish lease holder may appeal the Secretary's decision by filing a petition for a contested case under G.S. 150B-23.

(e) Pursuant to G.S. 113-202(a)(6), the Secretary is not authorized to approve renewal of a shellfish lease in an area designated as polluted by a proclamation issued by the Fisheries Director. Excluded from this requirement are shellfish leases located in conditionally approved waters that have been temporarily closed when the conditions of the written management plan are not met as described in 15A NCAC 18A .0905. Shellfish leases partially closed due to pollution shall be amended to exclude the area closed to shellfish harvest prior to renewal.

(f) If the Secretary declines to renew a shellfish lease that has been determined to be inconsistent with the standards of this Section, the Secretary, with the agreement of the lease holder, may issue a renewal lease for all or part of the area previously leased to the lease holder that contains conditions necessary to conform the renewal lease to the requirements of this Section for new leases.

*History Note: Authority G.S. 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-206; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. September 1, 2005; May 1, 1997; March 1, 1995; March 1, 1994; October 1, 1992;
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