

February 10, 2009

H 106. IMPLEMENT SHELLFISH FMP RECOMMENDATIONS. Filed 2/10/09. *TO IMPLEMENT THE RECOMMENDATIONS OF THE OYSTER AND HARD CLAM FISHERY MANAGEMENT PLAN, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.*

Amends GS 113-168.4, providing that it is unlawful for a person licensed under GS Chapter 113, Article 14A (Coastal and Estuarine Fishing Licenses), to sell fish taken outside the territorial waters of the state or from coastal fishing waters, to add an exception permitting the sale of oysters or clams from a hatchery or aquaculture operation to the holder of an Aquaculture Operation Permit, an Under Dock Culture Permit, or a shellfish cultivation lease for further grow out. Retains the exceptions for fish dealers licensed under GS 113-169.3 and sales to the public from a fish dealer licensed under GS 113-169.3. Makes technical changes.

Current law makes it unlawful for an individual without a shellfish license or a shellfish endorsement of a Standard Commercial Fishing License (SCFL) to take shellfish from public or private grounds of the state by mechanical means or *in quantities greater than the prescribed personal use limits* set forth in GS 113-169.2(i). Amends GS 113-169.2 to delete the *personal use limits* as a measure and to instead make it unlawful to take shellfish by any means *as part of a commercial fishing operation* without (1) a shellfish license or endorsement of an SCFL or (2) a current and valid shellfish license showing the correct name and address for the license holder. Makes conforming changes.

Amends GS 113-201 to authorize the Marine Fisheries Commission (MFC) to limit the number of acres in any area that may be granted as shellfish cultivation leases and to adopt rules establishing training requirements also for persons acquiring shellfish cultivation leases by lawful transfer (was, training requirements applicable only to persons applying for new shellfish cultivation leases). Provides that the training requirements do not apply to a person who (1) receives a cultivation lease via lawful transfer and (2) already holds one or more shellfish cultivation leases that meet shellfish production requirements established by the MFC.

Amends GS 113-202(c) to clarify that the number of acres of leases held by a person includes acres held by a corporation in which the person holds an interest for purposes of determining the maximum acquisition allowed of public bottoms under shellfish cultivation leases.

Amends GS 113-202(j) to provide that initial shellfish cultivation leases expire on the first day of July following the fifth anniversary (was, tenth anniversary) of the granting of the lease and that renewal leases are issued for a period of five years (was, ten years) from the time of the expiration of the previous lease.

Deletes GS 113-203(c) permitting the transplanting of oysters taken from public beds managed by the state to private beds for the production of seed oysters. Amends GS 113-203(d) to permit the transplanting of oysters taken from *natural or managed* public beds (was, public beds) designated as seed oyster management areas (was, natural seed oyster areas) by the MFC to private beds in North Carolina. Deletes guidelines specifying the process for designating beds as natural seed oyster areas. Permits the Secretary of Environment and Natural Resources to issue permits to qualified individuals, who are North Carolina residents, allowing those individuals to transplant seed oysters from designated seed oyster management areas (was, natural seed oyster areas) to private beds in NC. Retains the provision that the MFC may at its discretion assess a fee to persons taking these seed oysters.

Deletes GS 113-207(a) and (b) prohibiting the taking of shellfish from oyster rocks posted by the Department of Environment and Natural Resources by use of rakes or tongs or that will disturb or damage the shellfish.

Intro. by Wainwright.

GS 113

March 5, 2009

H 106. IMPLEMENT SHELLFISH FMP RECOMMENDATIONS. Filed 2/10/09. House committee substitute makes the following changes to 1st edition. Deletes GS 113-203(a)(2), which permitted the transplanting of oysters from public grounds to private beds when done by a dealer in accordance with GS 113-169.1(2). Makes other technical changes.