

15A NCAC 030 .0204 MARKING SHELLFISH LEASES AND FRANCHISES

(a) All shellfish leases and franchises shall be marked by the lease or franchise holder as follows:

- (1) Shellfish bottom leases and franchises shall be marked by:
 - (A) stakes of wood or plastic material no less than three inches in diameter and no more than 12 inches in diameter at the mean high water mark and extending at least four feet above the mean high water mark for each corner, except stakes more than 12 inches in diameter approved as part of a Coastal Area Management Act Permit issued in accordance with G.S. 113A-118 and G.S. 113-229 shall be allowed. The stakes shall be firmly jettied or driven into the bottom at each corner as identified in Rule .0202(b)(6) of this Section.
 - (B) signs displaying the number of the shellfish lease or franchise and the name of the lease or franchise holder printed in letters at least three inches high shall be firmly attached to each corner stake.
 - (C) yellow light reflective tape or yellow light reflective devices on each corner stake. The yellow light reflective tape or yellow light reflective devices shall be affixed to each corner stake, shall cover a vertical distance of not less than 12 inches, and shall be visible from all directions.
 - (D) supplementary stakes of wood or plastic material no less than three inches in diameter and no more than four inches in diameter, not farther apart than 150 feet or closer together than 50 feet and extending at least four feet above the mean high water mark, shall be placed along each boundary, except if doing so interferes with the use of traditional navigation channels.
- (2) Shellfish water column leases shall be marked at each corner of the area by signs giving notice and providing caution in addition to the required signs as identified and approved by the Secretary in the Shellfish Lease Management Plan as set forth in Rule .0202 of this Section.

(b) Stakes marking areas of management within shellfish bottom leases or franchises, as approved in the Shellfish Lease Management Plan, shall conform to Part (a)(1)(D) of this Rule and may not exceed one for each 1,200 square feet. Marking at concentrations of stakes greater than one for each 1,200 square feet constitutes use of the water column and a shellfish water column lease is required in accordance with G.S. 113-202.1 or G.S. 113-202.2.

(c) All areas claimed in filings made pursuant to G.S. 113-205 as deeded bottoms through oyster grants issued by the county clerk of court or as private bottoms through perpetual franchises issued by the Shellfish Commission shall be marked in accordance with Paragraph (a) of this Rule, except the sign shall include the number of the franchise rather than the number of the shellfish lease. However, claimed areas not being managed and cultivated shall not be marked.

(d) It shall be unlawful to exclude or attempt to exclude the public from allowable public trust use of navigable waters on shellfish leases and franchises including fishing, hunting, swimming, wading, and navigation.

(e) The Division has no duty to protect any shellfish lease or franchise not marked in accordance with Paragraph (a) of this Rule.

History Note: Authority G.S. 76-40; 113-134; 113-182; 113-201; 113-202; 113-202.1; 113-202.2; 113-205; 113-206; 143B-289.52; Eff. January 1, 1991; Amended Eff. September 1, 1997; March 1, 1994; October 1, 1992; September 1, 1991; Readopted Eff. August 23, 2022.