

15A NCAC 18A .0905 CONDITIONALLY APPROVED WATERS

(a) Shellfish growing waters may be classified as conditionally approved if the Division of Marine Fisheries determines the following:

- (1) the sanitary survey indicates the shellfish growing waters will not meet the approved waters classification criteria as set forth in Rule .0904 of this Section under all conditions, but will meet those criteria under certain conditions;
- (2) the conditions when the shellfish growing waters will meet the approved waters classification criteria are known and predictable;
- (3) the public bottom within those shellfish growing waters support a population of harvestable shellfish; and
- (4) staff are available to carry out the requirements defined in the management plan, as set forth in Paragraph (b) of this Rule.

(b) A written management plan shall be developed by the Division for conditionally approved areas. This plan shall define the conditions under which the shellfish growing waters may be open to the harvest of shellfish. If the conditions defined in the management plan are not met, the Division shall immediately close the shellfish growing waters to shellfish harvesting.

(c) All conditionally approved growing waters shall be re-evaluated on an annual basis. A written report summarizing this re-evaluation shall be produced and shall include the following:

- (1) an evaluation of compliance with management plan criteria;
- (2) a review of the cooperation of all persons involved;
- (3) an evaluation of bacteriological water quality in the growing waters with respect to the standards for the classification; and
- (4) an evaluation of critical pollution sources.

*History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. June 1, 1989;
Readopted Eff. May 1, 2021.*