

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0301

DEADLINE FOR RECEIPT: April 8, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Page 2, Line 4: Shouldn't the sentence read, "It shall be unlawful to use pots with mesh lengths smaller than one-half inch to take eels"?

Page 2, Line 26: This sentence is ambiguous.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 15A NCAC 03J .0301 is amended as published in 39:07 NCR 382-383 as follows:

2
3 **SECTION .0300 - POTS, DREDGES, AND OTHER FISHING DEVICES**
4

5 **15A NCAC 03J .0301 POTS**

6 (a) It shall be unlawful to use pots except during time periods and in areas specified herein:

7 (1) in Internal Waters from December 1 through May 31, except that:

8 (A) in the Northern Region designated in 15A NCAC 03R .0118(1) all pots shall be removed
9 from Internal Waters from January 1 through January 31. Fish pots upstream of the U.S.
10 17 Bridge across Chowan River and upstream of a line across the mouth of Roanoke,
11 Cashie, Middle, and Eastmost Rivers to the Highway 258 Bridge are exempt from this
12 removal requirement.

13 (B) in the Southern Region designated in 15A NCAC 03R .0118(2) all pots shall be removed
14 from Internal Waters from March 1 through March 15.

15 (2) in Internal Waters from June 1 through November 30 in the Northern Region designated in 15A
16 NCAC 03R .0118(1):

17 (A) in areas described in 15A NCAC 03R .0107(a).

18 (B) to allow for the variable spatial distribution of crustacea and finfish, the Fisheries Director
19 may, by proclamation, specify time periods for and designate the areas described in 15A
20 NCAC 03R .0107(b) or any part thereof, for the use of pots.

21 (3) in Internal Waters from May 1 through November 30 in the Southern Region designated in 15A
22 NCAC 03R .0118(2), the Fisheries Director may, by proclamation, specify time periods and areas
23 for the use of pots.

24 (4) in the Atlantic Ocean from May 1 through November 30 the Fisheries Director may, by
25 proclamation, specify time periods and areas for the use of pots.

26 (b) It shall be unlawful to use pots:

27 (1) in any navigation channel marked by State or Federal agencies; or

28 (2) in any turning basin maintained and marked by the North Carolina Ferry Division.

29 (c) It shall be unlawful to use pots in a commercial fishing operation unless each pot is marked by attaching a floating
30 buoy of any color except any shade of yellow or any shade of hot pink, or any combination of colors that include any
31 shade of yellow or any shade of hot pink. Buoys shall be of solid foam or other solid buoyant material no less than
32 five inches in diameter and no less than five inches in length. ~~The gear owner's last name and initials~~ One of the
33 following shall be engraved on the attached buoy or identified by attaching engraved metal or plastic tags to the ~~buoy.~~
34 ~~If a vessel is used, the identification shall also include one of the following: buoy:~~

35 (1) gear owner's current motor boat registration number; ~~or~~

36 (2) gear owner's U.S. vessel documentation ~~name~~ name; or

37 (3) gear owner's last name and initials.

(d) Pots attached to shore or a pier shall be exempt from Subparagraphs (a)(2) and (a)(3) of this Rule.

(e) It shall be unlawful to use shrimp pots with mesh lengths smaller than one and one-fourth inches stretch or five-eighths-inch bar.

(f) It shall be unlawful to use pots to take eels with mesh lengths smaller than one-half inch by one-half inch.

(g) Except for unbaited pots or pots baited with a male crab, it shall be unlawful to use crab pots in Coastal Fishing Waters unless each pot contains no less than three unobstructed escape rings that are at least two and five-sixteenth inches inside diameter and:

(1) for pots with a divider:

(A) two escape rings shall be located on opposite panels of the upper chamber of the pot; and

(B) at least one escape ring shall be located within one full mesh of the corner and one full mesh of the bottom of the divider in the upper chamber of the pot.

(2) for pots without a divider:

(A) two escape rings shall be located on opposite panels of the pot; and

(B) at least one escape ring shall be located within one full mesh of the corner and one full mesh of the bottom of the pot.

For the purpose of this Rule, a "divider" shall mean a panel that separates the crab pot into upper and lower sections.

(h) The Fisheries Director may, by proclamation, impose on a commercial fishing operation and for recreational purposes any of the following restrictions for pots:

(1) specify time;

(2) specify area;

(3) specify means and methods;

(4) specify record keeping and reporting requirements;

(5) specify season, including a closed season for removal of all pots from Internal Waters;

(6) specify species; and

(7) specify quantity.

(i) It shall be unlawful to use more than 150 crab pots per vessel in Newport River.

(j) It shall be unlawful to remove crab pots from the water or remove crabs from crab pots between one hour after sunset and one hour before sunrise.

(k) It shall be unlawful to use pots to take crabs unless the line connecting the pot to the buoy is non-floating.

(l) It shall be unlawful to use pots with leads or leaders to take shrimp. For the purpose of this Rule, "leads" or "leaders" shall mean any fixed or stationary net or device used to direct fish into any gear used to capture fish. Any device with leads or leaders used to capture fish shall not be a pot.

History Note: Authority G.S. 113-134; 113-173; 113-182; 113-221.1; 143B-289.52;

Eff. January 1, 1991;

Amended Eff. August 1, 1998; May 1, 1997; March 1, 1996; March 1, 1994; October 1, 1992;

September 1, 1991;

1 *Temporary Amendment Eff. July 1, 1999;*
2 *Amended Eff. August 1, 2000;*
3 *Temporary Amendment Eff. September 1, 2000;*
4 *Amended Eff. May 1, 2015; April 1, 2014; September 1, 2005; August 1, 2004; August 1, 2002;*
5 *Readopted Eff. March 15, ~~2023~~, 2023;*
6 *Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).*

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Page 1, Line 5: "average of North Carolina recreational and commercial landings" as determined by whom? In other words, who keeps the records upon which the average is based?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 15A NCAC 03M .0523 is adopted as published in 39:07 NCR 383 as follows:

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3 **15A NCAC 03M .0523 FALSE ALBACORE**

4 (a) If the level of landings of false albacore in a calendar year exceeds 200 percent of the five-year average of North
5 Carolina recreational and commercial landings combined from 2018-2022, the Fisheries Director shall issue a
6 proclamation as set forth in Paragraph (b) of this Rule.

7 (b) In accordance with Paragraph (a) of this Rule and after prior consent of the Marine Fisheries Commission, the
8 Fisheries Director shall, by proclamation, impose the following requirements on the taking of false albacore:

9 (1) for recreational purposes, specify a bag limit not to exceed 10 fish per person per day, not to exceed
10 30 fish per vessel per day; and

11 (2) for a commercial fishing operation, specify a trip limit not to exceed 3,500 pounds in any one day
12 or trip, whichever is more restrictive.

13 (c) A proclamation issued in accordance with Paragraphs (a) and (b) of this Rule shall become effective January 1 of
14 the year following the year when the determination is made that a proclamation shall be issued. The proclamation
15 shall expire when the level of landings falls below the landings level in Paragraph (a) of this Rule in a subsequent
16 calendar year and after prior consent of the Marine Fisheries Commission.

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18 History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;
19 Eff. May 1, 2025.