

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03I .0108

**DEADLINE FOR RECEIPT: Friday, January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In G.S. 113-181 gives authority to the Department to “regulate placement of nets and other sports or commercial fishing apparatus in coastal fishing waters with regard to navigational and recreational safety as well as from a conservation standpoint.” G.S. 113-185 gives authority to the Commission to adopt rules regarding buoys or beachmarkers. This Rule appears to do the latter. So, why is G.S. 113-181 included as authority for this Rule?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 03I .0108 is readopted with changes as published in 36:03 NCR 162 as follows:

2  
3 **15A NCAC 03I .0108 OCEAN FISHING PIERS**

4 (a) It ~~is shall be~~ unlawful to fish with nets of any kind or from boats within the zone adjacent to any ocean fishing  
5 pier meeting the requirements of G.S. 113-185(a), if such zone is marked by one of the following methods or a  
6 combination of methods:

7 (1) ~~Yellow-yellow~~ range poles at least three inches in diameter and extending not less than six feet  
8 above the surface of the ground, and ~~which that~~ are parallel to the pier and identified by signs with  
9 the name of the pier printed in letters at least three inches high; or

10 (2) ~~Buoys, which shall be-buoys that are~~ yellow in color and not less than nine inches in diameter and  
11 extend no less than three feet above the surface of the water.

12 (b) It ~~is shall be~~ unlawful to define a zone that extends more than 750 feet from the pier. When a marking system  
13 defines a smaller area than authorized, the limitations on fishing activities shall apply within the marked zone. When  
14 the marking system does not include buoys placed seaward of the pier's offshore end, the zone protected under G.S.  
15 113-185 shall be limited to the areas parallel to the sides of the pier and shall include no area seaward of the offshore  
16 end of the pier.

17 (c) Owners of qualifying ocean piers shall be responsible for complying with all applicable local, ~~state-State,~~ and  
18 federal regulations for marking systems.

19  
20 *History Note: Authority G.S. 113-134; 113-181; 113-182; 143B-289.52;*  
21 *Eff. January 1, 1991;*  
22 *Recodified from 15A NCAC 3I .0008 Eff. December 17, 1996;*  
23 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03I .0115

**DEADLINE FOR RECEIPT: Friday, January 14, 2022**

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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 call our office to inquire concerning the staff recommendation.

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

*Just to be sure that I understand, do replacement costs come into play when a fish is unlawfully taken? I think it would be helpful to somehow tie this Rule to G.S. 113-267 in the text of the Rule. Perhaps something like "In accordance with G.S. 113-267, this Rule shall apply to replacement costs of fish that have been taken, inured, removed, harmfully altered, damaged or destroyed."*

*What is the intent of Paragraph (b), particularly lines 6-13? Overall, this paragraph appears to be unnecessary as it does not meet the definition of a Rule as set forth in G.S. 150B-2.*

*In (c), where can the "minimum legal size" be found? Is there a cross-reference to rule or statute available?*

*In (c), line 15, please consider changing "as follows" to "as set forth in this Paragraph."*

*Just so I understand, how does Paragraph (e) go with Paragraphs (b) through (d)? Paragraph (e) appears to provide the actual replacement cost, while Paragraphs (b) through (d) provide the factors in reaching an amount. Are (b) through (d) addressing the same fish in (e)?*

*In (f)(1)(B), please capitalize "State's"*

*In (f)(1)(C) and ((f)(2)(A), delete or define "reasonable"*

*What are "other costs" in (f)(2)(F)? I assume that these are the other costs directly related to and necessitated by the investigation?*

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

1 15A NCAC 03I .0115 is readopted with changes as published in 36:03 NCR 162 as follows:

2  
3 **15A NCAC 03I .0115 REPLACEMENT COSTS OF MARINE AND ESTUARINE RESOURCES - FISH**

4 (a) Fish, as used throughout this Rule, is defined in G.S. 113-129(7).

5 (b) Replacement ~~Costs Distinguished. As costs distinguished: as~~ it applies to fishes the term "replacement costs" ~~must~~  
6 ~~shall~~ be distinguished from the "value" of the fish concerned. Except in cases where fish may lawfully be sold on the  
7 open market, as with commercially reared species, the monetary value of the specimens cannot be determined easily.  
8 The degree of special interest or concern in a particular species by the public, including not only anglers, but  
9 conservationists and those to whom the value of fishes is primarily aesthetic, cannot be measured in dollar amounts.  
10 The average cost of fish legally taken by anglers including travel and lodging, fishing equipment and bait, ~~and~~ excise  
11 taxes on equipment, licenses and other fees, may fairly be estimated. This too, however, is a reflection on the value of  
12 existing fishery resources rather than a measure of the cost of their replacement. Thus, the relative value of fish species  
13 shall be considered only as they may bear on the necessity or desirability of actual replacement.

14 (c) Determining replacement ~~costs. The costs: the~~ replacement costs of species of fishes that have been taken, injured,  
15 removed, harmfully altered, damaged, or destroyed shall be determined as follows. The weight of each undersized  
16 fish shall be adjusted to the average weight of a fish on the minimum legal size established by the Marine Fisheries  
17 Commission for that species. The replacement cost shall be calculated based on the greater of either:

- 18 (1) the cost of propagating and rearing the species in a hatchery and the cost of transporting them to  
19 areas of suitable habitat; or  
20 (2) the average annual ex-vessel value of fish species per pound.

21 (d) The cost of propagating, ~~rearing-rearing,~~ and transporting the fish and the average annual ex-vessel value of fish  
22 species per pound shall be taken from the Division of Marine Fisheries annual statistical report for the calendar year  
23 next preceding the year in which the offense was committed. When the cost of propagating, ~~rearing-rearing,~~ or  
24 transporting a particular species is not available, replacement costs shall be calculated based upon the average annual  
25 ex-vessel value of the species. When neither the cost of propagating, ~~rearing-rearing,~~ or transporting a particular  
26 species, nor the average annual ex-vessel value of the species is available, replacement costs shall be determined  
27 according to the following factors:

- 28 (1) whether the species is classified as endangered or threatened;  
29 (2) the relative frequency of occurrence of the species in the ~~state;State:~~  
30 (3) the extent of existing habitat suitable for the species within the ~~state;State:~~  
31 (4) the dependency of the species on unique habitat requirements;  
32 (5) the cost of improving and maintaining suitable habitat for the species;  
33 (6) the cost of capturing the species in areas of adequate populations and transplanting them to areas of  
34 suitable habitat with low populations;  
35 (7) the availability of the species and the cost of acquisition for restocking purposes;  
36 (8) the cost of those species ~~which, that~~ when released, have a probability of survival in the wild; ~~and~~

(9) the ratio between the natural life expectancy of the species and the period of its probable survival when, having been reared in a hatchery, it is released to the wild.

(e) Replacement costs ~~will~~ shall be assessed for the following fish:

- (1) Alewife (River Herring);
- (2) Amberjacks;
- (3) Anglerfish (Goosefish);
- (4) Bluefish;
- (5) Bonito;
- (6) Butterfish;
- (7) Carp;
- (8) Catfishes;
- (9) Cobia;
- (10) Croaker, Atlantic;
- (11) Cutlassfish, Atlantic;
- (12) Dolphinfish;
- (13) Drum, Black;
- (14) Drum, Red (Channel Bass);
- (15) Eels;
- (16) Flounders;
- (17) Flounders, Fluke;
- (18) Garfish;
- (19) Gizzard Shad;
- (20) Groupers;
- (21) Grunts;
- (22) Hakes;
- (23) Harvestfish;
- (24) Herring, Thread;
- (25) Hickory Shad;
- (26) Hogfish;
- (27) Jacks;
- (28) Kingfishes (Sea Mullet);
- (29) Mackerel, Atlantic;
- (30) Mackerel, King;
- (31) Mackerel, Spanish;
- (32) Menhaden, Atlantic;
- (33) Mullet;
- (34) Perch, White;

1	(35)	Perch, Yellow;
2	(36)	Pigfish;
3	(37)	Pompano;
4	(38)	Porgies;
5	(39)	Scup;
6	(40)	Sea Basses;
7	(41)	Seatrout, Spotted;
8	(42)	Shad (American);
9	(43)	Sharks;
10	(44)	Sharks, Dogfish;
11	(45)	Sheepshead;
12	(46)	Skippers;
13	(47)	Snappers;
14	(48)	Spadefish, Atlantic;
15	(49)	Spot;
16	(50)	Striped Bass;
17	(51)	Swellfishes (Puffers);
18	(52)	Swordfish;
19	(53)	Tilefish;
20	(54)	Triggerfish;
21	(55)	Tuna;
22	(56)	Wahoo;
23	(57)	Weakfish (Grey Trout);
24	(58)	Whiting;
25	(59)	Wreckfish;
26	(60)	Unclassified Fish;
27	(61)	Brown Shrimp;
28	(62)	Pink Shrimp;
29	(63)	Rock Shrimp;
30	(64)	White Shrimp;
31	(65)	Unclassified Shrimp;
32	(66)	Clam, Hard;
33	(67)	Conchs;
34	(68)	Crabs, Blue, Hard;
35	(69)	Crabs, Blue, Soft;
36	(70)	Octopus;
37	(71)	Oyster;

- (72) Scallop, Bay;
- (73) Scallop, Calico;
- (74) Scallop, Sea;
- (75) Squid; and
- (76) Unclassified Shellfish.

(f) Cost of ~~Investigations:~~investigations:

- (1) ~~Factors factors~~ to be ~~Considered. Upon considered: upon~~ any investigation required as provided by G.S. 143-215.3(a)(7) or by court order for the purpose of determining the cost of replacement of marine and estuarine resources ~~which that~~ have been killed, taken, injured, removed, harmfully altered, damaged, or destroyed, the factors to be considered in determining the cost of the investigation ~~are shall be~~ as follows:

- (A) the time expended by the employee or employees making the investigation, including travel time between the place of usual employment and the site of the investigation, and the time required in formulating and rendering the report;
- (B) the cost of service to the state of each employee concerned, including annual salary, hospitalization insurance, and the state's contribution to social security taxes and to the applicable retirement system;
- (C) subsistence of the investigating personnel, including meals, reasonable gratuities, and lodging away from home, when required;
- (D) the cost of all necessary transportation;
- (E) the use or rental of boats and motors, when required;
- (F) the cost of cleaning or repairing any uniform or clothing that may be damaged, soiled ~~soiled~~, or contaminated by reason of completing the investigation;
- (G) the cost of necessary telephonic communications; and
- (H) any other expense directly related to and necessitated by the investigation.

- (2) ~~Computation of Costs. In computation of costs: in~~ assessing the cost of time expended in completing the investigation, the time expended by each person required to take part in the investigation shall be recorded in hours, the value of which shall be computed according to the ratio between the annual cost of service of the employee and his or her total annual working hours (2087 hours reduced by holidays, annual leave entitlement, and earned sick leave). Other costs shall be assessed as follows:

- (A) subsistence: the per diem amount for meals, reasonable gratuities, and lodging away from home, not to exceed the then current maximum per diem for state employees;
- (B) transportation: total mileage by motor vehicle multiplied by:
  - (i) the then current rate per mile for travel by state-owned vehicle; or
  - (ii) the then current rate per mile for travel by ~~privately owned privately-owned~~ vehicle, as applicable;
- (C) boat and motor: ten dollars (\$10.00) per hour;

- 1 (D) uniform and clothing cleaning and repair: actual cost;  
2 (E) telephonic communications: actual cost; **and**  
3 (F) other expenses: actual cost.  
4

5 *History Note:* Authority G.S. 113-134; **113-182;** 113-267; 143B-289.52;  
6 *Eff. March 1, 1995;*  
7 *Recodified from 15A NCAC 3I .0015 Eff. December 17, 1996;*  
8 *Readopted Eff. April 1, 2022.*



## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03I .0122

**DEADLINE FOR RECEIPT: Friday, January 14, 2022**

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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 call our office to inquire concerning the staff recommendation.

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

*In (a), what is considered to be a "valid request"? Please delete or define "valid."*

*I note that I read G.S. 113-182.1 to require user conflicts to be addressed by the Department's Fishery Management Plans. What is your authority for this Rule? Is it related to the authority for proclamation delegation set forth in G.S. 113-221.1?*

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

1 15A NCAC 03I .0122 is readopted with changes as published in 36:03 NCR 162 as follows:

2  
3 **15A NCAC 03I .0122 USER CONFLICT RESOLUTION**

4 (a) ~~In order to~~ To address user conflicts, the Fisheries Director may, by proclamation, impose any ~~or all~~ of the  
5 following restrictions:

- 6 (1) specify time;  
7 (2) specify area;  
8 (3) specify means and methods;  
9 (4) specify ~~seasons;~~ season; and  
10 (5) specify quantity.

11 This authority may be used based on the Fisheries Director's own findings or on the basis of a valid request in  
12 accordance with Paragraph (b) of this Rule. The Fisheries Director shall hold a public meeting in the area of the user  
13 conflict prior to issuance of a proclamation based on his or her own findings.

14 (b) Request for user conflict resolution:

- 15 (1) ~~Any person(s) any person~~ desiring user conflict resolution may make such request in writing  
16 addressed to the Director of the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769,  
17 3441 Arendell St., Morehead City, NC 28557-0769, 28557. A request shall contain the following  
18 information:

- 19 (A) a map of the affected area including an inset vicinity map showing the location of the area  
20 with detail sufficient to permit on-site identification and location;  
21 (B) identification of the user conflict causing a need for user conflict resolution;  
22 (C) recommended solution for resolving user conflict; and  
23 (D) name and address of the ~~person(s) person~~ requesting user conflict resolution.

- 24 (2) ~~Within within~~ 90 days of the receipt of the information required in Subparagraph (b)(1) of this ~~Rule,~~  
25 ~~Paragraph,~~ the Fisheries Director shall review the information and determine if user conflict  
26 resolution is necessary. If user conflict resolution is not necessary, the Fisheries Director shall deny  
27 the request. If user conflict resolution is necessary, the Fisheries Director or his or her designee shall  
28 hold a public meeting in the area of the user conflict. The requestor shall present his or her request  
29 at the public meeting.

- 30 (3) ~~Following following~~ the public meeting as described in Subparagraph (b)(2) of this ~~Rule, Paragraph,~~  
31 the Fisheries Director shall refer the users in the conflict for mediation or deny the request. If the  
32 user conflict cannot be resolved through mediation, the Fisheries Director shall submit for approval  
33 a proclamation to the Marine Fisheries Commission that addresses the conflict.

- 34 (4) ~~Proclamations proclamations~~ issued under this Rule shall suspend appropriate rules or portions of  
35 rules under the authority of the Marine Fisheries Commission as specified in the proclamation. The  
36 provisions of Rule .0102 of this Section terminating suspension of a rule pending the next Marine

1 Fisheries Commission meeting and requiring review by the Marine Fisheries Commission at the  
2 next meeting shall not apply to proclamations issued under this Rule.

3  
4 *History Note: Authority G.S. 113-134; 113-181; 113-182; 113-221.1; 143B-289.52;*  
5 *Eff. May 1, 2015;*  
6 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0103

**DEADLINE FOR RECEIPT: Friday, January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (j), please add a comma before "except" throughout this Paragraph.*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 03J .0103 is adopted with changes as published in 36:03 NCR 162 as follows:

2  
3 **15A NCAC 03J .0103 GILL NETS, SEINES, IDENTIFICATION, RESTRICTIONS**

4 (a) It ~~is shall be~~ unlawful to use gill nets:

- 5 (1) with a mesh length less than two and one-half inches; and
- 6 (2) in Internal ~~Coastal~~ Waters from April 15 through December 15, with a mesh length five inches or  
7 greater and less than five and one-half inches.

8 (b) The Fisheries Director may, by proclamation, limit or prohibit the use of gill nets or seines in Coastal Fishing  
9 Waters, or any portion thereof, or impose any ~~or all~~ of the following restrictions on gill net or seine fishing operations:

- 10 (1) specify time;
- 11 (2) specify area;
- 12 (3) specify means and methods, including:
  - 13 (A) gill net mesh length, but the maximum length specified shall not exceed six and one-half  
14 inches in Internal ~~Coastal~~ Waters; and
  - 15 (B) net number and length, but for gill nets with a mesh length four inches or greater, the  
16 maximum length specified shall not exceed 2,000 yards per vessel in Internal ~~Coastal~~  
17 Waters regardless of the number of individuals involved; and
- 18 (4) specify season.

19 (c) It ~~is shall be~~ unlawful to use fixed or stationary gill nets in the Atlantic Ocean, drift gill nets in the Atlantic Ocean  
20 for recreational purposes, or any gill nets in Internal ~~Coastal~~ Waters unless nets are marked by attaching to them at  
21 each end two separate yellow buoys ~~which that~~ shall be of solid foam or other solid buoyant material no less than five  
22 inches in diameter and no less than five inches in length. Gill nets that are not connected together at the top line are  
23 considered as individual nets, requiring two buoys at each end of each individual net. Gill nets connected together at  
24 the top line are considered as a continuous net requiring two buoys at each end of the continuous net. Any other  
25 marking buoys on gill nets used for recreational purposes shall be yellow except ~~that~~ one additional buoy, any shade  
26 of hot pink in color, constructed as specified in this Paragraph, shall be added at each end of each individual net. Any  
27 other marking buoys on gill nets used in commercial fishing operations shall be yellow except that one additional  
28 identification buoy of any color or any combination of colors, except any shade of hot pink, may be used at either or  
29 both ends. The ~~owner-gear owner's last name and initials~~ shall be identified on a buoy on each end ~~either~~ by using  
30 engraved buoys or by attaching engraved metal or plastic tags to the buoys. ~~Such If a vessel is used, the~~ identification  
31 shall ~~also~~ include ~~owner's last name and initials and if a vessel is used,~~ one of the following:

- 32 (1) ~~gear~~ owner's ~~N.C.-current~~ motor boat registration number; or
- 33 (2) ~~gear~~ owner's U.S. vessel documentation name.

34 (d) It ~~is shall be~~ unlawful to use gill nets:

- 35 (1) within 200 yards of any flounder or other finfish pound net set with lead and either pound or heart  
36 in use, except from August 15 through December 31 in all Coastal Fishing Waters of the Albemarle  
37 Sound, including its tributaries to the boundaries between Coastal and Joint Fishing Waters, west of

a line beginning at a point ~~36° 04.5184' N – 75° 47.9095' W~~ 36° 04.5184' N – 75° 47.9095' W on Powell Point; running southerly to a point ~~35° 57.2681' N – 75° 48.3999' W~~ 35° 57.2681' N – 75° 48.3999' W on Caroon Point, it ~~is shall be~~ unlawful to use gill nets within 500 yards of any pound net set with lead and either pound or heart in use; and

(2) from March 1 through October 31 in the Intracoastal Waterway within 150 yards of any railroad or highway bridge.

(e) It ~~is shall be~~ unlawful to use gill nets within 100 feet either side of the center line of the Intracoastal Waterway Channel south of the entrance to the Alligator-Pungo River Canal near Beacon "54" in Alligator River to the South Carolina line, unless such net is used in accordance with the following conditions:

- (1) no more than two gill nets per vessel may be used at any one time;
- (2) any net used must be attended by the fisherman from a vessel who shall at no time be more than 100 yards from either net; and
- (3) any individual setting such nets shall remove them, when necessary, in sufficient time to permit unrestricted vessel navigation.

(f) It ~~is shall be~~ unlawful to use runaround, drift, or other non-stationary gill nets, except as provided in Paragraph (e) of this Rule:

- (1) to block more than two-thirds of any natural or manmade waterway, sound, bay, creek, inlet, or any other body of water; or
- (2) in a location where it will interfere with navigation.

(g) It ~~is shall be~~ unlawful to use unattended gill nets with a mesh length less than five inches in a commercial fishing operation in the gill net attended areas designated in 15A NCAC 03R .0112(a).

(h) It ~~is shall be~~ unlawful to use unattended gill nets with a mesh length less than five inches in a commercial fishing operation from May 1 through November 30 in the Internal ~~Coastal~~ Waters and Joint Fishing Waters of the state designated in 15A NCAC 03R .0112(b).

(i) It ~~is shall be~~ unlawful for any portion of a gill net with a mesh length five inches or greater to be within 10 feet of any point on the shoreline while set or deployed, unless the net is attended from June through October in Internal ~~Coastal~~ Waters.

(j) For the purpose of this Rule and 15A NCAC 03R .0112, "shoreline" ~~is defined as shall mean~~ the mean high water line or marsh line, whichever is more seaward.

*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; March 1, 1996; March 1, 1994; July 1, 1993; September 1, 1991;*  
*Temporary Amendment Eff. October 2, 1999; July 1, 1999; October 22, 1998;*  
*Amended Eff. April 1, 2001;*  
*Temporary Amendment Eff. May 1, 2001;*

1                   *Amended Eff. April 1, 2016; April 1, 2009; December 1, 2007; September 1, 2005; August 1, 2004;*  
2                   *August 1, 2002;*  
3                   *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0104

**DEADLINE FOR RECEIPT: Friday, January 14, 2022**

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

*In (b)(5)(A), (B), (C), and (D), please change the semi-colons after the "W" on lines 24, 27, the first on line 30, and line 32 to a comma.*

*In (g), what is meant by "in order to secure compliance with this Rule"?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021



1 15A NCAC 03J .0104 is readopted with changes as published in 36:03 NCR 162 as follows:

3 **15A NCAC 03J .0104 TRAWL NETS**

4 (a) It ~~is shall be~~ unlawful to possess aboard a vessel while using a trawl net in Internal ~~Coastal~~ Waters more than 500  
5 pounds of finfish from December 1 through March 1, and 1,000 pounds of finfish from March 2 through November  
6 30.

7 (b) It ~~is shall be~~ unlawful to use trawl nets:

8 (1) in Internal ~~Coastal~~ Waters from 9:00 p.m. on Friday through 5:00 p.m. on Sunday, except:

9 (A) from December 1 through March 1 from one hour after sunset on Friday to one hour before  
10 sunrise on Monday in the areas listed in Subparagraph (b)(5) of this ~~Rule; Paragraph;~~ or

11 (B) for a holder of a Permit for Weekend Trawling for Live Shrimp in accordance with 15A  
12 NCAC 03O .0503;

13 (2) for the taking of oysters;

14 (3) in Albemarle Sound, Currituck Sound, and their tributaries, west of a line beginning on the south  
15 shore of Long Point at a point 36° 02.4910' N – 75° 44.2140' W; running southerly to the north shore  
16 on Roanoke Island to a point 35° 56.3302' N – 75° 43.1409' W; running northwesterly to Caroon  
17 Point to a point 35° 57.2255' N – 75° 48.3324' W;

18 (4) in the areas described in 15A NCAC 03R .0106, except that the Fisheries Director may, by  
19 proclamation, open the area designated in ~~Item (1) of~~ 15A NCAC 03R ~~.0106 .0106(1)~~ to peeler crab  
20 trawling;

21 (5) from December 1 through March 1 from one hour after sunset to one hour before sunrise in the  
22 following areas:

23 (A) in Pungo River, north of a line beginning on Currituck Point at a point 35° 24.5833' N –  
24 76° 32.3166' W; running southwesterly to Wades Point to a point 35° 23.3062' N – 76°  
25 34.5135' W;

26 (B) in Pamlico River, west of a line beginning on Wades Point at a point 35° 23.3062' N – 76°  
27 34.5135' W; running southwesterly to Fulford Point to a point 35° 19.8667' N – 76°  
28 35.9333' W;

29 (C) in Bay River, west of a line beginning on Bay Point at a point 35° 11.0858' N – 76° 31.6155'  
30 W; running southerly to Maw Point to a point 35° 09.0214' N – 76° 32.2593' W;

31 (D) in Neuse River, west of a line beginning on the Minnesott side of the Neuse River Ferry at  
32 a point 34° 57.9116' N – 76° 48.2240' W; running southerly to the Cherry Branch side of  
33 the Neuse River Ferry to a point 34° 56.3658' N – 76° 48.7110' W; and

34 (E) in New River, all waters upstream of the N.C. Highway 172 Bridge when opened by  
35 proclamation; and

(6) in designated pot areas opened to the use of pots by ~~15A NCAC 03J .0301(a)(2)~~ of this Subchapter and described in 15A NCAC 03R .0107(a)(5), (a)(6), (a)(7), (a)(8), and (a)(9) within an area bound by the shoreline to the depth of six feet.

(c) Mesh sizes for shrimp and crab trawl nets shall meet the requirements of 15A NCAC 03L .0103 and .0202.

(d) The Fisheries Director may, with prior consent of the Marine Fisheries Commission, by proclamation, require bycatch reduction devices or ~~codend-cod end~~ (tailbag) modifications in trawl nets to reduce the catch of finfish that do not meet size limits or are unmarketable as individual foodfish by reason of size.

(e) It ~~is-shall be~~ unlawful to use shrimp trawl nets for recreational purposes unless the trawl net is marked by attaching to the ~~codend-cod end~~ (tailbag) ~~one-a~~ floating buoy, any shade of hot pink in ~~color, which-color.~~ Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The ~~owner-gear owner's last name and initials~~ shall be identified on the ~~attached~~ buoy by using an engraved buoy or by attaching engraved metal or plastic tags to the buoy. ~~Such-If a vessel is used, the~~ identification shall ~~also~~ include ~~owner's last name and initials and, if a vessel is used,~~ one of the following:

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

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

(f) It ~~is-shall be~~ unlawful to use shrimp trawl nets for the taking of blue crabs in Internal ~~Coastal~~ Waters, except that it shall be permissible to take or possess blue crabs incidental to shrimp trawling in accordance with the following limitations:

(1) for individuals using shrimp trawl nets authorized by a Recreational Commercial Gear License, 50 blue crabs per day, not to exceed 100 blue crabs if two or more Recreational Commercial Gear License holders are on board the same vessel; and

(2) for commercial operations, crabs may be taken incidental to lawful shrimp trawl net operations provided that the weight of the crabs shall not exceed the greater of:

(A) 50 percent of the total weight of the combined crab and shrimp catch; or

(B) 300 pounds.

(g) The Fisheries Director may, by proclamation, close any area to trawling for specific time periods in order to secure compliance with this Rule.

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

*Eff. February 1, 1991;*

*Amended Eff. August 1, 1998; May 1, 1997; March 1, 1994; February 1, 1992;*

*Temporary Amendment Eff. July 1, 1999;*

*Amended Eff. May 1, 2017; April 1, 2014; April 1, 2009; September 1, 2005; August 1, 2004; August 1, 2000;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0106

**DEADLINE FOR RECEIPT: Friday, January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*Please end (a)(1) through (4) with semi-colons, rather than periods and add an "and" or "or" at the end of (a)(4).*

*In (h)(2), what is meant by "in order to secure compliance with this Paragraph"?*

*Please begin (h)(2) with a capital letter since (h)(2) ended in a period.*

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 .0106 is readopted with changes as published in 36:03 NCR 162 as follows:

2  
3 **15A NCAC 03J .0106 CHANNEL NETS**

4 (a) It ~~is shall be~~ unlawful to use a channel net:

- 5 (1) ~~Until-until~~ the Fisheries Director specifies by proclamation, time periods and areas for the use of  
6 channel nets and other fixed nets for shrimping.  
7 (2) ~~Without-without~~ yellow light reflective tape on the top portion of each staff or stake and on any  
8 buoys located at either end of the net.  
9 (3) ~~With-with~~ any portion of the set including boats, anchors, cables, ~~ropes-ropes~~, or nets within 50 feet  
10 of the center line of the Intracoastal Waterway Channel.  
11 (4) ~~In-in~~ the middle third of any navigation channel marked by U.S. Army Corps of Engineers or U.S.  
12 Coast Guard.  
13 (5) ~~Unless-unless~~ attended by the fisherman who shall be no more than 50 yards from the net at all  
14 times.

15 (b) It ~~is shall be~~ unlawful to use or possess aboard a vessel any channel net with a corkline exceeding 40 yards.

16 (c) It ~~is shall be~~ unlawful to leave any channel net, channel net buoy, or channel net stakes in ~~coastal fishing waters~~  
17 Coastal Fishing Waters from December 1 through March 1.

18 (d) It ~~is shall be~~ unlawful to use floats or buoys of metallic material for marking a channel net set.

19 (e) From March 2 through November 30, cables used in a channel net operation shall, when not attached to the net,  
20 be connected together and any attached buoy shall be connected by non-metal line.

21 (f) It ~~is shall be~~ unlawful to leave channel net buoys in ~~coastal fishing waters~~ Coastal Fishing Waters without yellow  
22 light reflective tape on each buoy and without the ~~gear~~ owner's ~~identification~~ last name and initials being legibly  
23 printed on each buoy. ~~Such~~ If a vessel is used, the identification ~~must~~ shall also include one of the following:

- 24 (1) ~~Owner's N.C. motorboat-gear~~ owner's current motor boat registration number; or  
25 (2) ~~Owner's-gear~~ owner's U.S. vessel documentation ~~name; or name.~~  
26 (3) ~~Owner's last name and initials.~~

27 (g) It ~~is shall be~~ unlawful to use any channel nets, anchors, lines, or buoys in such a manner as to constitute a hazard  
28 to navigation.

29 (h) It ~~is shall be~~ unlawful to use channel nets for the taking of blue crabs in ~~internal waters,~~ Internal Waters, except  
30 that it shall be permissible to take or possess blue crabs incidental to channel net operations in accordance with the  
31 following limitations:

- 32 (1) ~~Crabs-crabs~~ may be taken incidental to lawful channel net operations provided that the weight of the  
33 crabs shall not exceed:  
34 (A) 50 percent of the total weight of the combined crab and shrimp catch; or  
35 (B) 300 pounds, whichever is greater.  
36 (2) ~~The-the~~ Fisheries Director may, by proclamation, close any area to channel net use for specific time  
37 periods in order to secure compliance with this Paragraph.

1

2 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

3 *Eff. January 1, 1991;*

4 *Amended Eff. September 1, 2005;*

5 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0111

**DEADLINE FOR RECEIPT: Friday, January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (a), please delete or define "clearly" and "securely"*

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

Amber May  
Commission Counsel

Date submitted to agency: December 30, 2021

1 15A NCAC 03J .0111 is readopted with changes as published in 36:03 NCR 162 as follows:

2  
3 **15A NCAC 03J .0111 FYKE OR HOOP NETS**

4 (a) It ~~is shall be~~ unlawful to use fyke or hoop nets in ~~coastal fishing waters~~ Coastal Fishing Waters without:

- 5 (1) the owner's identification being clearly printed on a sign no less than six inches square, securely  
6 attached on an outside corner stake of each such net; or  
7 (2) each net being marked by attaching a floating buoy to a single net and a buoy on each end of the  
8 line connecting multiple (two or more) nets, when stakes are not used. Buoys shall be of any color  
9 except any shade of yellow or any shade of hot pink, or any combination of colors that include any  
10 shade of yellow or any shade of hot pink. Buoys shall be of solid foam or other solid buoyant  
11 material ~~and~~ no less than five inches in diameter and no less than five inches in length. Buoys shall  
12 be of any color except yellow or hot pink. The ~~owner~~ gear owner's last name and initials shall ~~always~~  
13 be identified on the attached buoy by using engraved buoys or by attaching engraved metal or plastic  
14 tags ~~attached~~ to the buoy. ~~Such~~ If a vessel is used, the identification shall ~~include the gear owner's~~  
15 ~~current motorboat registration number and the gear owner's last name and initials, also include:~~  
16 (A) gear owner's current motor boat registration number; or  
17 (B) gear owner's U.S. vessel documentation name.

18 (b) It ~~is shall be~~ unlawful to use a fyke or hoop net within 200 yards of any operational pound net set.

19 (c) It ~~is shall be~~ unlawful to use a fyke or hoop net within 150 yards of any railroad or highway bridge.

20  
21 *History Note: Authority G.S. 113-134; 113-182; ~~113-221~~; 143B-289.52;*

22 *Temporary Adoption Eff. August 1, 2000;*

23 *Amended Eff. April 1, 2003; April 1, 2001;*

24 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0202

**DEADLINE FOR RECEIPT: Friday, January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*Since each Item is ending in a period, please begin each with a capital letter.*

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

Amber May  
Commission Counsel

Date submitted to agency: December 30, 2021



1 15A NCAC 03J .0202 is readopted with changes as published in 36:03 NCR 162 as follows:

3 **15A NCAC 03J .0202 ATLANTIC OCEAN**

4 In the Atlantic Ocean:

- 5 (1) ~~It is it shall be~~ unlawful to use nets from June 15 through August 15 in the waters of Masonboro  
6 Inlet or in the ocean within 300 yards of the beach between Masonboro Inlet and a line running  
7 southeasterly through the water tank ~~34° 13.1500' N – 77° 47.300' W~~ 34° 13.1500' N – 77° 47.3000'  
8 W on the northern end of Wrightsville Beach, a distance of 4400 yards parallel with the beach.
- 9 (2) ~~It is it shall be~~ unlawful to use trawls within one-half mile of the beach between the Virginia-North  
10 Carolina/Virginia state line and Oregon Inlet.
- 11 (3) ~~It is it shall be~~ unlawful to use a trawl with a mesh length less than four inches in the main body,  
12 three inches in the extension, and one and three-fourths inches in the cod end or ~~tail bag-tailbag~~  
13 inshore of a line beginning on the western side of Beaufort Inlet Channel at a point ~~34° 41.3000'~~  
14 N – 76° 40.1333' W; 34° 41.3000' N – 76° 40.1333' W; running westerly parallel to and one-half  
15 miles from the shore off Salter Path to a point ~~34° 40.5333' N – 76° 53.7500' W;~~ 34° 40.5333' N –  
16 76° 53.7500' W.
- 17 (4) ~~It is it shall be~~ unlawful to use trawl nets, including flynets, southwest of the 9960-Y chain 40250  
18 LORAN C line (running offshore in a southeasterly direction) from Cape Hatteras to the North  
19 Carolina/South Carolina state line except:  
20 (A)(a) ~~Shrimp-shrimp~~ trawls as defined in 15A NCAC 03L .0103;  
21 (B)(b) ~~Crab-crab~~ trawls as defined in 15A NCAC 03L .0202; or  
22 (C)(c) ~~Flounder-flounder~~ trawls as defined in 15A NCAC 03M .0503.
- 23 (5) ~~It is it shall be~~ unlawful to possess finfish (including pursuant to 15A NCAC 03M .0102) incidental  
24 to shrimp or crab trawl operations from December 1 through March 31 unless the weight of the  
25 combined catch of shrimp and crabs exceeds the weight of finfish, except an additional 300 pounds  
26 of kingfish (*Menticirrhus*, spp.) may be taken south of Bogue Inlet.
- 27 (6) ~~It is it shall be~~ unlawful to use unattended gill nets or block or stop nets in the Atlantic Ocean within  
28 300 yards of the beach from Beaufort Inlet to the South-North Carolina/South Carolina state line  
29 from sunset Friday to sunrise Monday from Memorial Day through Labor Day.
- 30 (7) ~~It is it shall be~~ unlawful to use gill nets in the Atlantic Ocean with a mesh length greater than seven  
31 inches from April 15 through December 15.
- 32 (8) ~~It is it shall be~~ unlawful to use shrimp trawls in all waters west of a line beginning at the southeastern  
33 tip of Baldhead Island at a point ~~33° 50.4833' N – 77° 57.4667' W;~~ 33° 50.4833' N – 77° 57.4667'  
34 W; running southerly in the Atlantic Ocean to a point ~~33° 46.2667' N – 77° 56.4000' W;~~ 33° 46.2667'  
35 N – 77° 56.4000' W; from 9:00 ~~P.M. p.m.~~ through 5:00 ~~A.M. a.m.~~

37 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

1                   *Eff. January 1, 1991;*  
2                   *Amended Eff. March 1, 1996; September 1, 1991;*  
3                   *Temporary Amendment Eff. December 1, 1997;*  
4                   *Amended Eff. October 1, 2008; August 1, 2004; August 1, 1998;*  
5                   *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03J .0208 is readopted with changes as published in 36:03 NCR 162 as follows:

2  
3 **15A NCAC 03J .0208 NEW RIVER**

4 (a) It ~~is shall be~~ unlawful to use trawl nets except skimmer trawls upstream of the Highway 172 Bridge over New  
5 River.

6 (b) It ~~is shall be~~ unlawful to use skimmer trawls upstream of the Highway 172 Bridge over New River from 9:00 ~~P.M.~~  
7 ~~p.m.~~ through 5:00 ~~A.M.-a.m.~~ from August 16 through November 30.

8  
9 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

10 *Eff. August 1, 1998;*

11 *Amended Eff. May 1, 2015; August 1, 2004;*

12 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03J .0401 is readopted with changes as published in 36:03 NCR 163 as follows:

2  
3 **SECTION .0400 - FISHING GEAR**  
4

5 **15A NCAC 03J .0401 FISHING GEAR**

6 (a) The Fisheries ~~Director~~ **Director**, in order to address issues involving user conflicts may, by proclamation, close  
7 the areas described in Paragraph (b) of this Rule to the use of specific fishing gear.

8 (b) It ~~is shall be~~ unlawful to use fishing gear as specified by proclamation at the time and dates specified in the  
9 proclamation between the Friday before Easter through December 31 in the following areas when such areas have  
10 been closed by proclamation:

11 (1) ~~All-all~~ or part of the Atlantic Ocean, up to one-half mile from the beach;

12 (2) ~~Up-up~~ to one-half mile in all directions of Oregon Inlet;

13 (3) ~~Up-up~~ to one-half mile in all directions of Hatteras Inlet;

14 (4) ~~Up-up~~ to one-half mile in all directions of Ocracoke Inlet;

15 (5) ~~Up-up~~ to one-half mile of the Cape Lookout Rock Jetty;

16 (6) ~~Up-up~~ to one-half mile in all directions of fishing piers open to the public;

17 (7) ~~Up-up~~ to one-half mile in all directions of State Parks; **and**

18 (8) ~~Up-up~~ to one-half mile of marinas as defined by the Coastal Resources Commission.

19 (c) The Fisheries Director shall specify in the proclamation the boundaries of the closure through the use of maps,  
20 legal descriptions, prominent ~~landmarks~~ **landmarks**, or other permanent type markers.

21 (d) The Fisheries Director shall hold a public meeting in the affected area before issuance of proclamations authorized  
22 by this Rule.

23  
24 *History Note: Authority G.S. 113-133; 113-134; 113-182; ~~113-221~~; **113-221.1**; 143B-289.52;*

25 *Eff. July 1, 1993;*

26 *Amended Eff. June 1, 1996; March 1, 1995; October 1, 1993;*

27 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03J .0402

**DEADLINE FOR RECEIPT: Friday, January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*Please check the capitalization and punctuation of the Sub-Paragraphs for consistency throughout this Rule. There are some that end with periods and others that end in semi-colons (I believe that semi-colons and "and" is what is intended in most places.)*

*In (a), what is considered to be "commercial fishing gear"? Is this defined elsewhere in rule or statute?*

*In (b)(3), please change "parks/recreation areas" to either "parks and recreation areas" or "parks or recreation areas", whichever is intended. Please do the same for "mooring facilities/marinas" in (b)(4).*

*Is (4)(c) intended to be broken up into additional parts?*

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 .0402 is readopted with changes as published in 36:03 NCR 163 as follows:

2  
3 **15A NCAC 03J .0402 FISHING GEAR RESTRICTIONS**

4 (a) It ~~is shall be~~ unlawful to use commercial fishing gear in the following areas during dates and times specified for  
5 the identified areas:

6 (1) Atlantic Ocean - Dare County:

7 (A) Nags Head:

8 (i) ~~Seines-seines~~ and gill nets may not be used from the North Town Limit of Nags  
9 Head at Eight Street southward to Gulf Street:

10 (I) ~~From from~~ Wednesday through Saturday of the week of the Nags Head  
11 Surf Fishing Tournament held during October of each year the week  
12 prior to Columbus Day.

13 (II) ~~From from~~ November 1 through December 15.

14 (ii) ~~Commercial-commercial~~ fishing gear may not be used within 750 feet of licensed  
15 fishing piers when open to the public.

16 (B) Oregon ~~Inlet. Seines-Inlet: seines~~ and gill nets may not be used from the Friday before  
17 Easter through December 31:

18 (i) ~~Within within~~ one-quarter mile of the beach from the National Park Service Ramp  
19 #4 ~~(35° 48.2500' N – 75° 32.7000' W) (35° 48.2500' N – 75° 32.7000' W)~~ on Bodie  
20 Island to the northern terminus of the Bonner Bridge ~~(35° 46.5000' N – 75°~~  
21 ~~32.3666' W) (35° 46.5000' N – 75° 32.3666' W)~~ on Hwy. 12 over Oregon Inlet.

22 (ii) ~~Within within~~ the area known locally as "The Pond", a body of water generally  
23 located to the northeast of the northern terminus of the Bonner Bridge.

24 (C) Cape Hatteras (Cape ~~Point. Seines-Point): seines~~ and gill nets may not be used within one-  
25 half mile of Cape Point from the Friday before Easter through December 31. The closed  
26 area is defined by a circle with a one-half mile radius having the center near Cape Point at  
27 a point ~~35° 12.9000' N – 75° 31.7166' W 35° 12.9000' N – 75° 31.7166' W.~~

28 (2) Atlantic Ocean - Onslow and Pender ~~Counties. Commercial-counties: commercial~~ fishing gear may  
29 not be used during the time specified for the following areas:

30 (A) Topsail ~~Beach. From-Beach: from~~ January 1 through December 31, that area around Jolly  
31 Roger Fishing Pier bordered on the offshore side by a line 750 feet from the end of the pier  
32 and on the northeast and southwest by a line beginning at a point on the beach one-quarter  
33 mile from the pier extending seaward to intersect the offshore boundary.

34 (B) Surf City:

35 (i) ~~From from~~ January 1 to June 30, that area around the Surf City Fishing Pier  
36 bordered on the offshore side by a line 750 feet from the end of the pier, on the  
37 southwest by a line beginning at a point on the beach one-quarter mile from the

- 1 pier and on the northeast by a line beginning at a point on the beach 750 feet from  
2 the pier extending seaward to intersect the offshore boundaries.
- 3 (ii) ~~From from~~ July 1 to December 31, those areas around the pier bordered on the  
4 offshore side by a line 750 feet from the end of the pier, on the southwest by a  
5 line beginning at a point on the beach 750 feet from the pier and on the northeast  
6 by a line beginning at a point on the beach one-quarter mile from the pier  
7 extending seaward to intersect the offshore boundaries.
- 8 (3) Atlantic Ocean - New Hanover ~~County. County:~~ Carolina Beach Inlet through Kure ~~Beach.~~  
9 ~~Commercial-Beach: commercial~~ fishing gear may not be used during the times specified for the  
10 following areas:
- 11 (A) ~~From from~~ the Friday before Easter to November 30, within the zones adjacent to the  
12 Carolina Beach and Kure Beach Fishing Piers bordered on the offshore side by a line 750  
13 feet from the ends of the piers and on the north and south by a line beginning at a point on  
14 the beach one-quarter mile from the pier extending seaward to intersect the offshore  
15 boundary, except the southern boundary for Kure Beach Pier is a line beginning on the  
16 beach one mile south of the pier to the offshore boundary for the pier.
- 17 (B) ~~From from~~ May 1 to November 30, within 900 feet of the beach, from Carolina Beach Inlet  
18 to the southern end of Kure Beach with the following exceptions:
- 19 (i) ~~From from~~ one-quarter mile north of Carolina Beach Fishing pier to Carolina  
20 Beach Inlet from October 1 to November 30:
- 21 (I) ~~Strike-strike~~ nets may be used within 900 feet of the beach; ~~and~~  
22 (II) ~~Attended-attended~~ nets may be used between 900 feet and one-quarter  
23 mile of the beach.
- 24 (ii) ~~Strike-strike~~ nets and attended gill nets may be used within 900 feet of the beach  
25 from October 1 to November 30 in other areas except those described in Part  
26 (a)(3)(A) and Subpart (a)(3)(B)(i) of this ~~Rule-Subparagraph.~~
- 27 (iii) ~~It is-it shall be~~ unlawful to use commercial fishing gear within 900 feet of the  
28 beach from Carolina Beach Inlet to a point on the beach 33°55.0026' N –  
29 77°56.6630' W near the former location of New Inlet during the October surf  
30 fishing tournament in Carolina Beach.
- 31 (4) Pamlico River – Beaufort ~~County. County:~~ Goose Creek State ~~Park. Commercial-Park: commercial~~  
32 fishing gear may not be used from the Friday before Easter through December 31 for the following  
33 areas:
- 34 (A) ~~Within-within~~ 150 feet of the shoreline within park boundaries; ~~and~~  
35 (B) ~~Within-within~~ the marked channel from Dinah Landing to the mouth of Upper Goose  
36 Creek.

(b) It ~~is~~ shall be unlawful to use gill nets or seines in the following areas during dates and times specified for the identified areas:

- (1) Neuse River and South River, Carteret ~~County. No County: no~~ more than 1,200 feet of gill ~~net(s)~~ nets having a stretched mesh of five inches or larger may be used:
  - (A) Within within one-half mile of the shore from Winthrop Point at Adams Creek to Channel Marker "2" at the mouth of Turnagain Bay.
  - (B) Within within South River.
- (2) Cape Lookout, Carteret County:
  - (A) Gill-gill nets or seines may not be used in the Atlantic Ocean within 300 feet of the Rock Jetty (at Cape Lookout between Power Squadron Spit and Cape Point).
  - (B) Seines-seines may not be used within one-half mile of the shore from Power Squadron Spit south to Cape Point and northward to Cape Lookout Lighthouse including the area inside the "hook" south of a line from the COLREGS Demarcation Line across Bardens Inlet to the eastern end of Shackleford Banks and then to the northern tip of Power Squadron Spit from 12:01 a.m. Saturdays until 12:01 a.m. Mondays from May 1 through November 30.
- (3) State ~~Parks/Recreation Areas:~~ parks/recreation areas:
  - (A) Gill-gill nets or seines may not be used in the Atlantic Ocean within one-quarter mile of the shore at Fort Macon State Park, Carteret County.
  - (B) Gill-gill nets or seines may not be used in the Atlantic Ocean within one-quarter mile of the shore at Hammocks Beach State Park, Onslow County, from May 1 through October 1, except strike nets and attended gill nets may be used beginning August 15.
  - (C) Gill-gill nets or seines may not be used within the boat basin and marked entrance channel at Carolina Beach State Park, New Hanover County.
- (4) ~~Mooring Facilities/Marinas. Gill~~ mooring facilities/marinas: gill nets or seines may not be used from May 1 through November 30 within:
  - (A) One-quarter-one-quarter mile of the shore from the east boundary fence to the west boundary fence at U.S. Coast Guard Base Fort Macon at Beaufort Inlet, Carteret County;
  - (B) Canals-canals within Pine Knoll Shores, Carteret County;
  - (C) Spooners Creek entrance channel and marina on Bogue Sound, Carteret County; Harbor Village Marina on Topsail Sound, Pender County; and Marina and entrance canal within Carolina Marlin Club property adjacent to Newport River, Carteret County.
- (5) Masonboro ~~Inlet. Gill Inlet: gill~~ nets and seines may not be used:
  - (A) Within within 300 feet of either rock jetty; and
  - (B) Within within the area beginning 300 feet from the offshore end of the jetties to the Intracoastal Waterway including all the waters of the inlet proper and all the waters of Shinn Creek.



- 1 (6) Atlantic Ocean ~~Fishing Piers. At fishing piers: at~~ a minimum, gill nets and seines may not be used  
2 within 300 feet of ocean fishing piers when open to the public. If a larger closed area has been  
3 delineated by the placement of buoys or beach markers as authorized by G.S. 113-185(a), it ~~is shall~~  
4 ~~be~~ unlawful to fish from vessels or with nets within the larger marked zone.
- 5 (7) Topsail Beach, Pender ~~County. It is County: it shall be~~ unlawful to use gill nets and seines from  
6 4:00 p.m. Friday until 6:00 a.m. the following Monday in the three finger canals on the south end  
7 of Topsail Beach.
- 8 (8) Mad Inlet to Tubbs Inlet - Atlantic Ocean, Brunswick ~~County. It is County: it shall be~~ unlawful to  
9 use gill nets and seines from September 1 through November 15, except that a maximum of four  
10 commercial gill nets per vessel not to exceed 200 yards in length individually or 800 yards in  
11 combination may be used.
- 12 (9) Spooners Creek, Carteret ~~County. It is County: it shall be~~ unlawful to use gill nets and seines  
13 between sunset and sunrise in Spooners Creek entrance channel in Bogue Sound, all of Spooners  
14 Creek ~~proper proper,~~ and the adjoining tributary canals and channels.

15  
16 *History Note:* *Authority G.S. 113-133; 113-134; 113-182; ~~113-221;~~ 143B-289.52;*  
17 *Eff. March 1, 1996;*  
18 *Amended Eff. October 1, 2004; August 1, 2004; April 1, 2001;*  
19 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03L .0207

**DEADLINE FOR RECEIPT: Friday, January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (a), is the intent to incorporate the commercial quota of the Atlantic State Marine Fisheries Commission for horseshoe crabs? I see this Commission is authorized in Article 19. If the intent is to incorporate by reference, please do so in accordance with G.S. 150B-21.6, unless it's already been done elsewhere in your Rules.*

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

Amber May  
Commission Counsel

Date submitted to agency: December 30, 2021

1 15A NCAC 03L .0207 is readopted as published in 36:03 NCR 163 as follows:

2  
3 **15A NCAC 03L .0207 HORSESHOE CRABS**

4 (a) The annual (January through December) commercial quota for North Carolina for horseshoe crabs is established  
5 by the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab.

6 (b) The Fisheries Director may, by proclamation, impose any ~~or all~~ of the following restrictions on the taking of  
7 horseshoe crabs to maintain compliance with the Atlantic States Marine Fisheries Commission Interstate Fishery  
8 Management Plan for Horseshoe ~~Crab~~; Crab or to implement state management measures:

- 9 ~~(1) Specify season;~~  
10 ~~(2) Specify areas;~~  
11 ~~(3) Specify quantity;~~  
12 ~~(4) Specify means and methods; and~~  
13 ~~(5) Specify size.~~  
14 (1) specify time;  
15 (2) specify area;  
16 (3) specify means and methods;  
17 (4) specify season;  
18 (5) specify size; and  
19 (6) specify quantity.

20 ~~(c) Horseshoe crabs taken for biomedical use under a Horseshoe Crab Biomedical Use Permit are subject to this Rule.~~

21  
22 *History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*

23 *Temporary Adoption Eff. August 1, 2000;*

24 *Codifier determined that findings did not meet criteria for temporary rule on October 31, 2000;*

25 *Temporary Adoption Eff. December 6, 2000;*

26 *Eff. August 1, 2002;*

27 *Amended Eff. April 1, 2011;*

28 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03L .0210

**DEADLINE FOR RECEIPT: Friday, January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*What is considered to be "foreign crab meat"?*

*In (b), what are "state management measures"? I note that this language is used elsewhere in your Rules.*

*Is the intent to make this a criminal offense? If so, what is your authority to do so? I don't see it in the authority cited. I understand that G.S. 113-135 provides for criminal liability for violation of rules adopted pursuant to Article 13, but the specific authority for this Rule appears to come from G.S. 113-221.2 in Article 17. Please note that I am not questioning the authority for this Rule overall, just the authority to make this a criminal offense.*

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

Amber May  
Commission Counsel

Date submitted to agency: December 30, 2021

1 15A NCAC 03L .0210 is adopted as published in 36:03 NCR 163 as follows:

2  
3 **15A NCAC 03L .0210 REPACKING OF FOREIGN CRAB MEAT PROHIBITED**

4 It shall be unlawful to repack foreign crab meat in North Carolina into another container. This Rule shall apply to all  
5 facilities and persons permitted in accordance with 15A NCAC 18A .0135. This Rule does not apply to crab meat that  
6 has been transformed into another product, such as crab cakes or other value-added products.

7  
8 History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

9 Eff. (Pending legislative review pursuant to S.L. 2019-198).

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03L .0301

**DEADLINE FOR RECEIPT: Friday, January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (b), what are "state management measures"?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 03L .0301 is readopted as published in 36:03 NCR 163 as follows:

3 **SECTION .0300 – LOBSTER**

5 **15A NCAC 03L .0301 AMERICAN LOBSTER (NORTHERN LOBSTER)**

6 (a) It ~~is shall be~~ unlawful to possess American lobster:

- 7 (1) ~~with a carapace less than 3 3/8 inches or greater than 5 1/4 inches;~~  
8 (2)(1) ~~which that~~ has eggs or from which eggs have been artificially removed by any method;  
9 (3)(2) ~~meats, detached meats, detached tails or claws-claws,~~ or any other part of a lobster that has been  
10 separated from the lobster;  
11 (4)(3) ~~which that~~ has an outer shell which has been speared; or  
12 (5)(4) that is a V-notched female lobster. A V-notched female lobster is any female lobster that bears a  
13 notch or indentation in the base of the flipper that is at least as deep as 1/8 inch, with or without setal  
14 hairs. A V-notched female lobster is also any female lobster ~~which that~~ is mutilated in a manner  
15 ~~which that~~ would hide, ~~obscure-obscure,~~ or obliterate such a ~~mark; or mark.~~  
16 (6) ~~in quantities greater than 100 per day or 500 per trip for trips five days or longer taken by gear or~~  
17 ~~methods other than traps.~~

18 (b) ~~American lobster traps not constructed entirely of wood (excluding heading or parlor twine and the escape vent)~~  
19 ~~must contain a ghost panel that meets the following specifications:~~

- 20 (1) ~~the opening to be covered by the ghost panel shall be not less than 3 3/4 inches (9.53 cm) by 3 3/4~~  
21 ~~inches (9.53 cm);~~  
22 (2) ~~the panel must be constructed of, or fastened to the trap with, one of the following untreated~~  
23 ~~materials: wood lath, cotton, hemp, sisal or jute twine not greater than 3/16 inch (0.48 cm) in~~  
24 ~~diameter, or non-stainless, uncoated ferrous metal not greater than 3/32 inch (0.24 cm) in diameter;~~  
25 (3) ~~the door of the trap may serve as the ghost panel, if fastened with a material specified in this Section;~~  
26 (4) ~~the ghost panel must be located in the outer parlor(s) of the trap and not the bottom of the trap; and~~  
27 (5) ~~contains at least one rectangular escape vent per trap, 2 inches by 5 3/4 inches minimum size, or~~  
28 ~~two circular escape vents per trap, with a minimum inside diameter of 2 5/8 inches.~~

29 (b) The Fisheries Director may, by proclamation, impose any of the following restrictions on the taking of American  
30 lobster to maintain compliance with the Atlantic States Marine Fisheries Commission Interstate Fishery Management  
31 Plan for American Lobster or to implement state management measures:

- 32 (1) specify time;  
33 (2) specify area;  
34 (3) specify means and methods;  
35 (4) specify season;  
36 (5) specify size; and  
37 (6) specify quantity.

1  
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7

*History Note: Authority G.S. 113-134; 113-182; ~~113-221~~; 113-221.1; 143B-289.52;*  
*Eff. January 1, 1991;*  
*Amended Eff. March 1, 1996;*  
*Temporary Amendment Eff. August 1, 2000;*  
*Amended Eff. April 1, 2009; September 1, 2005; April 1, 2001;*  
*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*



## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 03L .0302

**DEADLINE FOR RECEIPT: Friday, January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*Just to be clear, there are no limits on the possession of the spiny lobster, unless done by proclamation to maintain compliance with the Fishery Management Plan? Who creates this? The Department in accordance with G.S. 113-182.1 or is this something different? I note that G.S. 113-182.1(f) requires rulemaking in accordance with G.S. 150B to implement Fishery Management Plans.*

*What are "state management measures"?*

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

1 15A NCAC 03L .0302 is readopted as published in 36:03 NCR 163-164 as follows:

2  
3 **15A NCAC 03L .0302 SPINY LOBSTER**

4 ~~It is unlawful to:~~

- 5 (1) ~~Possess a egg bearing spiny lobster or a spiny lobster from which eggs have been stripped, scrubbed~~  
6 ~~or removed;~~  
7 (2) ~~Possess spiny lobster with a carapace length less than 3 inches;~~  
8 (3) ~~Possess aboard a vessel or land more than two spiny lobsters per person;~~  
9 (4) ~~Possess aboard a vessel or land detached spiny lobster tails; or~~  
10 (5) ~~Take spiny lobsters with a gaff hook, spear or similar device. Possession of a speared, pierced, or~~  
11 ~~punctured spiny lobster is prima facie evidence that prohibited gear was used.~~

12 The Fisheries Director may, by proclamation, impose any of the following restrictions on the taking of spiny lobster  
13 to maintain compliance with the Fishery Management Plan for Spiny Lobster in the Gulf of Mexico and the South  
14 Atlantic or to implement state management measures:

- 15 (1) specify time;  
16 (2) specify area;  
17 (3) specify means and methods;  
18 (4) specify season;  
19 (5) specify size; and  
20 (6) specify quantity.

21  
22 *History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*  
23 *Eff. January 1, 1991;*  
24 *Amended Eff. March 1, 1996;*  
25 *Readopted Eff. April 1, 2022.*

1 15A NCAC 03M .0301 is repealed through readoption as published in 36:03 NCR 164 as follows:

2  
3 **SECTION .0300 - SPANISH AND KING MACKEREL**  
4

5 **15A NCAC 03M .0301 SPANISH AND KING MACKEREL**  
6

7 *History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;*  
8 *Eff. January 1, 1991;*  
9 *Amended Eff. March 1, 1996;*  
10 *Temporary Amendment Eff. January 1, 2000; July 1, 1999;*  
11 *Amended Eff. October 1, 2008; August 1, 2002; April 1, 2001;*  
12 *Repealed Eff. April 1, 2022.*

1 15A NCAC 03M .0302 is readopted as published in 36:03 NCR 164 as follows:

2  
3 **15A NCAC 03M .0302 PURSE GILL NET PROHIBITED**

4 It ~~is~~ shall be unlawful to have a purse gill net on board a vessel when taking or landing Spanish or ~~King Mackerel~~.  
5 king mackerel.

6  
7 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

8 *Eff. January 1, 1991;*

9 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

1 15A NCAC 03M .0511 is repealed through readoption as published in 36:03 NCR 164 as follows:

2  
3 **15A NCAC 03M .0511 BLUEFISH**

4  
5 *History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;*  
6 *Eff. March 1, 1994;*  
7 *Amended Eff. March 1, 1996;*  
8 *Temporary Amendment Eff. September 9, 1996;*  
9 *Amended Eff. April 1, 1997;*  
10 *Temporary Amendment Eff. July 1, 1999;*  
11 *Amended Eff. October 1, 2008; April 1, 2003; August 1, 2000;*  
12 *Repealed Eff. April 1, 2022.*

1 15A NCAC 03M .0516 is repealed through readoption as published in 36:03 NCR 164 as follows:

2

3 **15A NCAC 03M .0516 COBIA**

4

5 *History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

6 *Temporary Adoption Eff. July 1, 1999;*

7 *Eff. August 1, 2000;*

8 *Repealed Eff. April 1, 2022.*

1 15A NCAC 03M .0519 is readopted as published in 36:03 NCR 164 as follows:

2  
3 **15A NCAC 03M .0519 SHAD**

4 ~~(a) It is unlawful to take American shad and hickory shad by any method except hook and line from April 15 through~~  
5 ~~December 31.~~

6 ~~(b) It is unlawful to possess more than 10 American shad or hickory shad, in the aggregate, per person per day taken~~  
7 ~~by hook and line or for recreational purposes.~~

8 ~~(c) It is shall be unlawful to take or possess American shad from the Atlantic Ocean.~~

9  
10 *History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;*

11 *Eff. October 1, 2008;*

12 *Amended Eff. April 1, 2012;*

13 *Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0134

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*Given the language on line 5, I understand that you are not trying to expand the definition of "adulterated" set forth in G.S. 106-129. So, would it be more accurate to say something like "Adulterated" as defined in G.S. 106-129, shall include the following:"?*

*In Item (2), delete or define "conspicuously"*

*In Item (4), what is an "acceptable level"?*

*In Item (5), what is an "acceptable level"?*

*In Item (8), please delete or define "readily", "effectively", and "normal"*

*In Item (13), is the plan going to be specific to each dealer"? Also, what is a "dealer"?*

*In Item (15), what is meant by "immediate" and "serious"?*

*In Item (17), would it be more accurate to say something like "Misbranded" as defined in G.S. 106-130 includes any container of cooked..." Given the language on line 5, I understand that you aren't trying to change the definition of "misbranded"*

*In (21), delete or define "conspicuously"*

*In (27)(b), delete or define "substantially"*

*In (28), desired and specified by whom? Is time and temperature provided in these Rules?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021



1 15A NCAC 18A .0134 is readopted with changes as published in 36:03 NCR 164-166 as follows:

2  
3 **15A NCAC 18A .0134 DEFINITIONS**

4 The following definitions shall apply ~~throughout to~~ this Section; however, nothing in this Section shall be construed  
5 as expanding or restricting the definitions in G.S. 106-129 and G.S. 106-130:

6 (1) "Adulterated" as used in G.S. 106-129 means the following:

7 (a) ~~Any any~~ cooked crustacea or crustacea meat that does not comply with ~~these Rules; the~~  
8 Rules in this Section;

9 (b) ~~Any any~~ cooked crustacea or crustacea meat ~~which that~~ exceeds the bacteriological  
10 standards in Rule .0182 of this Section; or

11 (c) ~~Any any~~ cooked crustacea or crustacea meat ~~which that~~ has been deemed to be an imminent  
12 ~~hazard; hazard.~~

13 (2) "Code date" means the date conspicuously placed on the container to indicate the date that the  
14 product was packed.

15 (3) "Cook" means to prepare or treat raw crustacea by heating.

16 (4) "Critical control point" means a point, ~~step step,~~ or procedure in a food process at which a control  
17 can be ~~applied, applied~~ and a food safety hazard ~~can can,~~ as a ~~result result,~~ be prevented, ~~eliminated~~  
18 eliminated, or reduced to acceptable levels.

19 (5) "Critical limit" means the maximum or minimum value to which a physical, biological biological,  
20 or chemical chemical, or physical parameter ~~must shall~~ be controlled at a critical control point to  
21 prevent, ~~eliminate eliminate,~~ or reduce to an acceptable level the occurrence of the identified food  
22 safety hazard.

23 (6) "Crustacea meat" means the meat of crabs, lobster, ~~shrimp shrimp,~~ or crayfish.

24 (7) "Division" means the Division of ~~Environmental Health or its authorized agent.~~ Marine Fisheries.

25 (8) "Easily cleanable" means a surface that is readily accessible and made of such materials, has a finish,  
26 and is so fabricated that residues may be effectively removed by normal cleaning methods.

27 (8)(9) "Food-contact surface" means the parts of equipment, including auxiliary equipment, ~~which that~~  
28 may be in contact with the food being processed, or ~~which that~~ may drain into the portion of  
29 equipment with which food is in contact.

30 (9)(10) "Food safety hazard" means any biological, ~~chemical chemical,~~ or physical property that may cause  
31 a food to be unsafe for human consumption.

32 (10)(11) "Foreign" means any place or location outside the United States.

33 (11)(12) "Fresh crustacea" means a live, ~~raw raw,~~ or frozen raw crab, lobster, ~~shrimp shrimp,~~ or crayfish  
34 ~~which that~~ shows no decomposition.

35 (12)(13) "HACCP plan" means a written document that delineates the formal procedures a dealer follows to  
36 implement food safety controls.

- (13)(14) "Hazard analysis critical control point (HACCP)" means a system of inspection, ~~control-control~~, and monitoring measures initiated by a dealer to identify microbiological, ~~chemical-chemical~~, or physical food safety hazards ~~which-that~~ are likely to occur in shellfish products produced by the dealer.
- (14)(15) "Imminent hazard" means a situation ~~which-that~~ is likely to cause an immediate threat to human life, an immediate threat of serious physical injury, an immediate threat of serious physical adverse health effects, or a serious risk of irreparable damage to the environment if no immediate action is taken.
- (15)(16) "Internal temperature" means the temperature of the product as opposed to the ambient temperature.
- (16)(17) "Misbranded" as used in G.S. 106-130 means any container of cooked crustacea or crustacea meat ~~which-that~~ is not labeled in compliance with ~~these Rules-the Rules in this Section~~.
- (18) "Most probable number (MPN)" means a statistical estimate of the number of bacteria per unit volume and is determined from the number of positive results in a series of fermentation tubes.
- (17)(19) "Operating season" means the season of the year during which a crustacea product is processed.
- (18)(20) "Pasteurization" means the process of heating every particle of crustacea meat in a hermetically-sealed ~~401 by 301 one pound~~ container to a temperature of at least ~~185°F (85°C)-185°~~ F (85° C) and holding it continuously at or above this temperature for at least one minute at the geometric center of a container in properly operated equipment-equipment being operated in compliance with the Process Validation Study Report. The term includes any other process ~~which~~ that has been found equally effective by the Division.
- (19)(21) "Pasteurization date" means a code conspicuously placed on the container to indicate the date that the product was pasteurized.
- (20) ~~"Person" means an individual, corporation, company, association, partnership, unit of government or other legal entity.~~
- (22) "Process Validation Study Report" means a report of tests that shows a piece of equipment can produce time-temperature results as required by the Rules of this Section, and the procedures required to achieve such results.
- (21)(23) "Processing" means any of the following operations when carried out in conjunction with the cooking of crustacea or crustacea meat: receiving, refrigerating, air-cooling, picking, packing, repacking, thermal processing, or pasteurizing.
- (22)(24) "Repacker" means a facility ~~which-that~~ repacks cooked crustacea meat into other containers.
- (23)(25) "Responsible person" means the individual present in a cooked crustacea facility who is the apparent supervisor of the cooked crustacea facility at the time of the inspection. If no individual is the apparent supervisor, then any employee is the responsible person.
- (26) "Retort" means a pressure vessel used to cook raw crustacea.

1 ~~(24)~~(27) "Sanitize" means a bactericidal treatment by a process which meets the temperature and chemical  
2 ~~concentration levels in 15A NCAC 18A .2619.~~ to treat food contact surfaces by a process that is  
3 effective in:

4 (a) destroying vegetative cells of microorganisms of public health significance;

5 (b) substantially reducing the numbers of other undesirable microorganisms; and

6 (c) not adversely affecting the product or its safety for the consumer.

7 ~~(25)~~ "Standardization report" means a report of tests which show that a piece of equipment can produce  
8 ~~time/temperature results as required by these Rules.~~

9 ~~(26)~~(28) "Thermal processing" means the heating of previously cooked crustacea or crustacea meat to a  
10 desired temperature for a specified time at the geometric center of a container in properly-operated  
11 equipment. equipment being operated in compliance with the Process Validation Study Report.

12  
13 *History Note:* Authority G.S. 106-129; 106-130; ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52;  
14 Eff. October 1, 1992;  
15 Amended Eff. August 1, 2000; August 1, 1998; February 1, 1997;  
16 Readopted Eff. April 1, 2022.

1 15A NCAC 18A .0136 is readopted as published in 36:03 NCR 166 as follows:

2  
3 **15A NCAC 18A .0136 APPLICABILITY OF RULES**

4 The ~~Rules~~ rules in this Section shall apply to the operation of all facilities and persons permitted in Rule .0135 of this  
5 Section and all other businesses and persons that buy, sell, ~~transport~~ transport, or ship cooked crustacea or crustacea  
6 meat ~~which that~~ has not been transformed into another product. ~~Foreign crustacea meat processed in North Carolina~~  
7 ~~shall comply with all applicable Federal requirements.~~

8  
9 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

10 *Eff. October 1, 1992;*

11 *Amended Eff. April 1, 1997;*

12 *Readopted Eff. (Pending legislative review of 15A NCAC 03L .0210).*

1 15A NCAC 18A .0137 is readopted as published in 36:03 NCR 166 as follows:

2  
3 **15A NCAC 18A .0137 GENERAL REQUIREMENTS FOR OPERATION**

4 (a) During the operating season the processing portion of the facility shall be used for no purpose other than the  
5 processing of cooked crustacea or crustacea meat.

6 (b) Retail sales of cooked crustacea or crustacea meat shall not be made from any processing portion of the facility.

7 (c) Accurate records of all purchases and sales of crustacea and crustacea meat shall be maintained for one year. The  
8 records shall be available for inspection by the ~~Division~~ Division of Marine Fisheries.

9  
10 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

11 *Eff. October 1, 1992;*

12 *Amended Eff. April 1, 1997.*

13 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0138

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (b), who is an "unauthorized person"? Unauthorized by whom?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0138 is readopted as published in 36:03 NCR 166 as follows:

2  
3 **15A NCAC 18A .0138 SUPERVISION**

4 (a) The owner or responsible person shall supervise the processing operation and be responsible for compliance with  
5 the rules of this ~~Section.~~ Section, including compliance with personal hygiene requirements as set forth in Rule .0153  
6 of this Section.

7 (b) No unauthorized persons shall be allowed in the facility during the periods of operation.

8 ~~(c) The owner or responsible person shall observe employees daily to ensure compliance with Rule .0153 of this~~  
9 ~~Section.~~

10  
11 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

12 *Eff. October 1, 1992.*

13 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0139

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (a), cleaned how? Is there a cross-reference available? I note that "sanitize" is defined.*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021



1 15A NCAC 18A .0139 is readopted as published in 36:03 NCR 166 as follows:

2  
3 **15A NCAC 18A .0139 FACILITY FLOODING**

4 (a) If the facility floors are flooded, processing shall be discontinued until flood waters have receded and the facility  
5 and equipment are cleaned and sanitized.

6 (b) Any cooked crustacea or crustacea meat ~~which that~~ may have been contaminated by flood waters shall be deemed  
7 adulterated and disposed of in accordance with G.S. ~~130A-21(e)~~ 113-221.4 and Rule .0181 of this Section.

8  
9 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 113-221.4; 143B-289.52;~~*

10 *Eff. October 1, 1992;*

11 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0144

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*On line 5, what is considered to be "good-repair"?*

*What are the applicable State and federal laws and Rules?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0144 is readopted as published in 36:03 NCR 166 as follows:

2  
3 **15A NCAC 18A .0144 INSECT CONTROL**

4 All outside openings shall be screened, provided with wind ~~curtains~~curtains, or be provided with other methods to  
5 eliminate the entrance of insects. All screens shall be kept in good repair. All outside doors shall open outward and  
6 shall be self-closing. The use and storage of pesticides shall comply with all applicable State and ~~Federal~~federal laws  
7 and rules.

8  
9 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

10 *Eff. October 1, 1992.*

11 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0145

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*On line 5, what are the applicable State and federal laws and Rules?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0145 is readopted as published in 36:03 NCR 166-167 as follows:

2  
3 **15A NCAC 18A .0145 RODENT AND ANIMAL CONTROL**

4 Measures shall be taken by the owner or responsible person to keep animals, fowl, rodents, and other vermin out of  
5 the facility. The storage and use of rodenticides shall comply with all applicable State and ~~Federal~~ federal laws and  
6 rules.

7  
8 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

9 *Eff. October 1, 1992.*

10 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0147

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (b), a laboratory certified by whom?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0147 is readopted as published in 36:03 NCR 167 as follows:

2  
3 **15A NCAC 18A .0147 WATER SUPPLY**

4 (a) The water supply used shall be in accordance with ~~15A NCAC 18A .1700.~~ 15A NCAC 18A .1720 through .1728.

5 ~~(b) A cooked crustacea facility using a non community water supply shall be listed with the Public Water Supply~~  
6 ~~Section, Division of Environmental Health.~~

7 ~~(c)(b)~~ Water samples for bacteriological analysis shall be collected at least annually by the Division of Marine  
8 Fisheries and submitted to ~~the Laboratory Division of the Department or another a~~ laboratory certified by the  
9 ~~Department for potable water testing in the State of North Carolina~~ for analysis.

10 ~~(d)(c)~~ Cross-connections with unapproved water supplies are prohibited. Hot and cold running water under pressure  
11 shall be provided to food preparation, ~~utensils-utensils,~~ and handwashing areas and any other areas in which water is  
12 required for cleaning. Running water under pressure shall be provided in sufficient quantity to carry out all food  
13 preparation, utensil washing, hand washing, ~~cleaning-cleaning,~~ and other water-using operations.

14  
15 *History Note: Authority G.S. ~~130A-230;~~ 113-134; 113-182; 113-221.2; 143B-289.52;*  
16 *Eff. October 1, 1992;*  
17 *Amended Eff. April 1, 1997;*  
18 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0148

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (a), what is meant by "in a manner to prevent contamination"?*

*In (b), cleaned how? Is there a cross-reference available?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021



1 15A NCAC 18A .0148 is readopted as published in 36:03 NCR 167 as follows:

2  
3 **15A NCAC 18A .0148 ICE**

4 (a) Ice shall be obtained from a water supply approved by the Division of Marine Fisheries pursuant to Rule .0147 of  
5 this Section and shall be stored and handled ~~in accordance with these Rules~~ in a manner to prevent contamination.

6 (b) All equipment used in the handling of ice shall be used for no other purpose and shall be cleaned and sanitized at  
7 least once each day the facility is in operation.

8  
9 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

10 *Eff. October 1, 1992.*

11 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0149

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (c), please delete or define "readily"*

*In (g), what standards or factors is the Division to use in determining whether to approve a testing method or equipment? Is this within the authority of the Division to determine the standards? Must the method or equipment just be capable of testing the strength of the solution?*

*In (g), what is meant by the "prescribed strengths"? Those set forth in this Paragraph?*

*In (h), what is meant by a "protected dispenser"?*

*In (h), approved by whom? How will this be determined?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0149 is readopted as published in 36:03 NCR 167 as follows:

2  
3 **15A NCAC 18A .0149 PLUMBING**

4 (a) Plumbing fixtures shall be located to facilitate the flow of processing activities and to prevent the splashing of  
5 water on food-contact surfaces or cooked crustacea and crustacea meat.

6 (b) Fixtures, ~~ducts~~ ducts, and pipes shall not be suspended over working areas.

7 (c) Handwash lavatories shall be located so that the supervisor can readily observe that employees wash and sanitize  
8 their hands before beginning work and after each interruption.

9 (d) Handwash lavatories shall be provided in the following locations:

10 (1) ~~Packing~~ packing room or ~~area~~ area;

11 (2) ~~Toilet~~ toilet or lounge ~~area~~ area; and

12 (3) ~~Picking~~ picking room.

13 (e) At least one handwash lavatory shall be provided for every 20 employees among the first 100 employees and at  
14 least one handwash lavatory shall be provided for every 25 employees in excess of the first 100 employees.

15 (f) Additional lavatories required by Paragraph (e) of this Rule shall be located in the picking room.

16 (g) A container shall be located near each handwash lavatory in the picking room and packing room or area to sanitize  
17 hands in a solution containing at least 100 parts per million (ppm) of available chlorine or other equally effective  
18 bactericide. A ~~suitable~~ testing method or equipment approved by the Division of Marine Fisheries shall be available  
19 and ~~regularly~~ used to test chemical sanitizers to ~~insure~~ ensure minimum prescribed strengths.

20 (h) Soap and single service towels in protected dispensers, or other approved hand drying devices, shall be available  
21 near the handwash lavatories.

22 (i) All pre-cool rooms, picking rooms, packing rooms or areas, and cooking areas shall be provided with ~~hose~~ bibs  
23 hose bibs and wash down hoses. Storage racks shall be provided to keep the hoses elevated off the floor when not in  
24 use.

25 (j) An automatically regulated hot-water system shall be provided to furnish a sufficient volume of hot water with a  
26 temperature of at least 130° F (54.5° C) to carry out all processing operations.

27 (k) All handwash lavatories and sinks shall be equipped with mixing faucets.

28 (l) A three-compartment sink with drainboards, large enough to wash the largest utensils used in the facility, shall be  
29 located in the picking room near the delivery shelf. One three-compartment sink, with drainboards, shall be provided  
30 for every 50 employees or fraction thereof.

31 (m) The floor drains in coolers shall not be connected directly to a sewer in processing or repacking facilities  
32 constructed after October 1, 1992.

33  
34 *History Note: Authority G.S. ~~1304-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

35 *Eff. October 1, 1992;*

36 *Readopted Eff. April 1, 2022.*

1 15A NCAC 18A .0151 is readopted as published in 36:03 NCR 167 as follows:

2  
3 **15A NCAC 18A .0151 TOILETS**

4 (a) Toilets shall be provided by the owner or responsible person in the facility; however, privies may be substituted  
5 for toilets when the conditions in Paragraph (d) of this Rule are met. facility.

6 (b) Toilet tissue shall be ~~provided~~ provided by the owner or responsible person in a holder.

7 (c) Toilet room doors shall not open directly into processing areas of the facility and shall be self-closing.

8 ~~(d) Only privies that meet the requirements of Section .1900 of this Subchapter and that were in place at a processing~~  
9 ~~or repacking facility prior to October 1, 1992 may be used at the facility after October 1, 1992.~~

10  
11 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

12 *Eff. October 1, 1992.*

13 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0152

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (a), what other solid wastes may this include? I'm assuming that your regulated public knows?*

*In (b) and (d), what are the approval standards that the Division is to use? Is this within the Department's authority to set standards? If so, I think it's fine. If not, please provide how this determination is to be made and/or the requirements of these areas. Is this provided elsewhere in rule or statute?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0152 is readopted as published in 36:03 NCR 167-168 as follows:

2  
3 **15A NCAC 18A .0152 SOLID WASTE**

4 (a) Cooked crustacea scrap and other putrescible wastes shall be removed from the premises at least daily. Other solid  
5 wastes shall be removed from the premises at least weekly.

6 (b) Scrap containers shall be removed from the picking room immediately after filling and placed in storage areas  
7 approved by the ~~Division~~ Division of Marine Fisheries.

8 (c) Scrap containers shall be non-corrosive and cleaned at least daily.

9 (d) Scrap containers shall be cleaned in an area approved by the Division.

10  
11 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

12 *Eff. October 1, 1992.*

13 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0153

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (a), delete or define "conspicuous"*

*In (b), what does "sanitize" mean in this context? The definition provided in .0134 does not seem to apply here.*

*In (c), what is considered to be "clean" in this context?*

*In (g), what standards will be used in determining whether to approve an arm guard? What are the requirements for an arm guard?*

*In (h), what is considered to be "clean"?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0153 is readopted with changes as published in 36:03 NCR 168 as follows:

2  
3 **15A NCAC 18A .0153 PERSONAL HYGIENE**

4 (a) All employees shall wash their hands with soap and running water before beginning work and again after each  
5 interruption. Signs to this effect shall be posted in conspicuous places in the facility by the ~~owner.~~ owner or responsible  
6 person.

7 (b) All ~~persons~~ individuals handling cooked crustacea or crustacea meat shall sanitize their hands before beginning  
8 work and again after each interruption.

9 (c) All ~~persons~~ individuals employed or engaged in the handling, ~~picking~~ picking, or packing of cooked crustacea or  
10 crustacea meat shall wear clean, washable outer clothing.

11 (d) Employees shall not eat food, ~~drink nor~~ drink, or use tobacco in any form in the areas where cooked crustacea or  
12 crustacea meat are stored, ~~processed~~ processed, or handled.

13 (e) Any ~~person~~ individual known to be a carrier of any disease ~~which that~~ can be transmitted through the handling of  
14 cooked crustacea or crustacea meat or who has an infected wound or open lesion on any exposed portion of the body  
15 shall be prohibited from handling cooked crustacea or crustacea meat.

16 (f) Hair restraints shall be worn by all employees who handle cooked crustacea or crustacea meat.

17 (g) The arms of ~~personnel~~ employees who pick or pack cooked crustacea or crustacea meat shall be bare to the elbow  
18 or covered with an arm guard approved by the ~~Division.~~ Division of Marine Fisheries.

19 (h) ~~Personnel~~ Employees who pick and pack cooked crustacea or crustacea meat shall have ~~clean~~ clean, short  
20 ~~fingermails,~~ fingermails free from nail polish and shall not wear jewelry other than easily cleanable rings. The use of  
21 absorbent wraps or absorbent finger cots shall not be permitted.

22  
23 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

24 *Eff. October 1, 1992.*

25 *Readopted Eff. April 1, 2022.*



## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0156

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*On line 4, what is considered "durable" and "good repair"?*

*On line 5, please delete or define "easily" in "easily accessible." Please delete or define "easily."*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0156 is readopted as published in 36:03 NCR 168 as follows:

2  
3 **15A NCAC 18A .0156 EQUIPMENT AND UTENSIL CONSTRUCTION**

4 All processing equipment and utensils shall be smooth, easily cleanable,  ~~durable~~  durable, and kept in good repair. The  
5 food-contact surfaces of equipment,  ~~utensils~~  utensils, and processing machinery shall be easily accessible for cleaning,  
6 non-toxic, non-corrosive,  ~~non-absorbent~~  non-absorbent, and free of open seams.

7  
8 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

9 *Eff. October 1, 1992.*

10 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0157

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (a), what is considered "clean"?*

*In (a) and (b), what is "evidence of contamination"? Can you provide some examples?*

*In (d)(2), what is "clean" water?*

*In (d)(3), please change "will" to "shall". Alternatively, please consider changing "will require washing, rinsing, and sanitizing" to "shall be washed, rinsed, and sanitized."*

*In (d)(4), delete or define "regularly"*

*In (d)(4), what factors is the Division to use in determining whether to approve testing methods or equipment?*

*In (d)(4), what are "prescribed strengths"? Those set forth in this Subparagraph?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0157 is readopted as published in 36:03 NCR 168 as follows:

2  
3 **15A NCAC 18A .0157 FACILITY AND EQUIPMENT SANITATION**

4 (a) The walls and floors in the picking and packing areas shall be kept clean while operating and shall be sanitized at  
5 least daily and whenever there is evidence of contamination.

6 (b) All food-contact surfaces shall be washed, ~~rinsed~~ rinsed, and sanitized prior to starting operation each day and  
7 whenever there is evidence of contamination.

8 (c) Reusable picking containers and knives shall be washed, ~~rinsed~~ rinsed, and sanitized each time crustacea meat is  
9 delivered to the packing room.

10 (d) Sanitizing methods ~~are~~ shall be as follows:

11 (1) ~~By~~ by steam in a steam chamber or box equipped with an indicating thermometer located in the  
12 coldest zone, ~~by~~ with exposure to a temperature of 170° F (77° C) for at least 15 minutes or to a  
13 temperature of 200° F (93° C) for at least five minutes.

14 (2) ~~By~~ by immersion for at least one minute in the third compartment in clean hot water at a temperature  
15 of at least 170° F (77° C). A thermometer accurate to ~~3°F~~ 3° F (1.5° C) shall be available to the  
16 compartment. Where hot water is used for bactericidal treatment, a booster heater that maintains a  
17 water temperature of at least 170° F (77° C) in the third compartment at all times when utensils are  
18 being washed shall be provided. The heating device may be integral with the immersion  
19 compartment.

20 (3) ~~By~~ by immersion for at least one minute in, or exposure for at least one minute to a constant flow  
21 of, a solution containing not less than 100 ppm chlorine residual. Utensils and equipment ~~which~~ that  
22 have to be washed in place will require washing, ~~rinsing~~ rinsing, and sanitizing.

23 (4) ~~By~~ by other equivalent products and procedures approved in 21 CFR 178.1010 "Sanitizing  
24 solutions" from the "Food Service Sanitation Manual" published by the U.S. Food and Drug  
25 Administration. 21 CFR 178.1010 solutions", which is hereby incorporated by reference including  
26 any subsequent amendments and editions. ~~This material is available for inspection, and copies may~~  
27 ~~be obtained at no cost, at the Shellfish Sanitation Branch, 3441 Arendell Street, P.O. Box 769,~~  
28 ~~Morehead City, North Carolina 28557. A copy of the reference material can be found at~~  
29 ~~[https://www.ecfr.gov/cgi-](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=17d119b223f9451322279713caa2e6ab&ty=HTML&h=L&mc=true&n=pt21.3.178&r=PART#se21.3.178_11010)~~  
30 ~~[bin/retrieveECFR?gp=1&SID=17d119b223f9451322279713caa2e6ab&ty=HTML&h=L&mc=true&n=pt21.3.178&r=PART#se21.3.178\\_11010](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=17d119b223f9451322279713caa2e6ab&ty=HTML&h=L&mc=true&n=pt21.3.178&r=PART#se21.3.178_11010)~~, at no cost. A ~~suitable~~ Division of Marine Fisheries  
31 approved testing method or equipment shall be available and regularly used to test chemical  
32 sanitizers to ~~insure~~ ensure minimum prescribed strengths.

33  
34  
35 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*  
36 *Eff. October 1, 1992;*  
37 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0158

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*What is meant by "in a manner to protect against contamination"?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0158 is readopted as published in 36:03 NCR 168 as follows:

2  
3 **15A NCAC 18A .0158 EQUIPMENT STORAGE**

4 Equipment and utensils that have been cleaned and sanitized shall be stored in a manner to protect against  
5 contamination.

6  
7 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

8 *Eff. October 1, 1992.*

9 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0161

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (g), please delete or define "durable"*

*In (i), what factors will the Division use in determining whether to approve the Report?  
Here, is the report being approved or is the retort being approved based upon the Report?  
Please clarify if necessary.*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0161 is readopted as published in 36:03 NCR 169 as follows:

2  
3 **15A NCAC 18A .0161 CRUSTACEA COOKING**

4 (a) The cooking area or room shall be under a roof located between the area for receiving raw crustacea and the  
5 air-cool room and shall be vented to assure the removal of steam.

6 (b) Crustacea shall be cooked in accordance with the following:

7 (1) Crabs shall be cooked under steam pressure until the internal temperature of the center-most crab  
8 reaches 235° F (112.8° C). Temperature shall be measured with an accurate, indicating thermometer  
9 having a range of 170-270° F (77-132° C).

10 (2) Other crustacea shall be cooked until the internal temperature of the center-most crustacean reaches  
11 180° F (83° C) and is held at this temperature for one minute. Temperature shall be measured with  
12 an accurate, indicating thermometer. Crayfish shall be culled and cleaned prior to cooking.

13 (3) Nothing in this Rule shall prohibit any other cooking process ~~which that~~ has been found equally  
14 effective and approved by the ~~Division~~ Division of Marine Fisheries.

15 (c) The retort shall be constructed to permit a working pressure of at least 20 pounds per square inch (psig). Steam  
16 inlet and venting shall provide a uniform and complete distribution of steam. Venting shall be sufficient to permit  
17 complete elimination of air from the retort. Drains and vents shall be located at least two feet above mean high tide.

18 (d) The retorts shall be equipped with:

19 (1) ~~An an~~ accurate, indicating thermometer with a range that will include 170-270° F (77-132° C) and  
20 located with the sensor extending into the heat ~~chamber~~ chamber;

21 (2) ~~An an~~ operating pressure indicator, at least three inches in diameter, with a 0-30 psig range and  
22 located adjacent to the indicating ~~thermometer~~ thermometer; and

23 (3) ~~A a~~ safety valve operational at 18-30 psig, located in the upper portion of the retort, protected from  
24 ~~tampering~~ tampering, and designed to prevent injury to the operator.

25 (e) The boiler shall be of such capacity as to maintain 45 to 100 psig during cooking. The steam line from the boiler  
26 to the retort shall be at least one and one-fourth inch inside diameter.

27 (f) Overhead hoists shall be equipped with chain bags or other means of preventing foreign material from falling onto  
28 the cooked product.

29 (g) Retort cooking baskets shall be of stainless steel or equally impervious, ~~non-corrosive~~ non-corrosive, and durable  
30 material, and shall be designed to allow for equal steam disbursement, ease of handling, ~~dumping~~ dumping, and  
31 cleaning.

32 (h) All construction or replacement of retorts after October 1, 1992 shall be "flow-through" type and ~~opening~~ open  
33 directly into the air-cool room or a protected passageway into the air-cool room.

34 (i) All construction of new or replacement retorts shall require a Process Validation Study Report approved by the  
35 Division prior to use.

36  
37 *History Note: Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52;*



- 1                   *Eff. October 1, 1992.*
- 2                   *Readopted Eff. April 1, 2022.*

1 15A NCAC 18A .0162 is readopted as published in 36:03 NCR 169 as follows:

2  
3 **15A NCAC 18A .0162 COOKED CRUSTACEA AIR-COOL**

4 (a) Cooked crustacea, after removal from the retort, shall be moved immediately to the cooked crustacea ~~air-cool~~  
5 air-cool area to be air cooled to ambient temperature without being disturbed. Cooked crustacea shall be stored in the  
6 original cooking basket.

7 (b) The construction and arrangement of the air-cool room shall be designed to provide protection from contamination  
8 of the cooked crustacea. The air-cool room shall open directly into the cooked crustacea cooler or other protected area.

9  
10 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

11 *Eff. October 1, 1992.*

12 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0164

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (a), what is meant by “in a manner to prevent contamination”?*

*In (e), what standards or factors is the Division to use in determining whether to approve a testing method or equipment? Is this within the authority of the Division to determine the standards? Must the method or equipment just be capable of testing the strength of the solution?*

*In (e), what are the “prescribed minimums”? Those set forth in this Paragraph?*

*In (e), just to be clear, the “chemical sanitizers” on line 11 are the same as the “bactericidal solutions” on line 9? Please use consistent language where you can.*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0164 is readopted as published in 36:03 NCR 169 as follows:

2  
3 **15A NCAC 18A .0164 COOKED CRUSTACEA PICKING**

4 (a) The picking operation shall be conducted in a manner to prevent contamination.

5 (b) All cooked crustacea shall be picked before a new supply is delivered to the picking table.

6 (c) Picked crustacea meat shall be delivered to the packing room at least every 90 minutes or upon the accumulation  
7 of five pounds per ~~picker-picker~~, whichever is sooner.

8 (d) Paper towels used at the picking table shall be discarded after initial use.

9 (e) If provided, bactericidal solutions at picking tables shall be maintained at 100 ppm chlorine solution or an  
10 equivalent bactericidal solution. A testing method or equipment approved by the Division of Marine Fisheries to ~~insure~~  
11 ensure minimum prescribed strengths shall be available and used to test chemical sanitizers.

12 (f) Handles of picking knives shall not be covered with any material.

13 (g) Crustacea shall be cooked and picked in the same permitted facility unless a written plan for interfacility shipment  
14 has been filed with the Division. The plan shall address and be approved based ~~upon~~ on the following:

15 (1) ~~time temperature;~~ time-temperature requirements;

16 (2) ~~shipping destination;~~ shipping destination;

17 (3) handling;

18 (4) labeling;

19 (5) records;

20 (6) processing;

21 (7) sanitation; and

22 (8) HACCP plan.

23  
24 *History Note: Authority G.S. ~~1304-230;~~ 113-134; 113-182; 113-221.2; 143B-289.52;*

25 *Eff. October 1, 1992;*

26 *Temporary Amendment Eff. July 1, 2000;*

27 *Temporary Rule Expired on March 12, 2001;*

28 *Amended Eff. August 1, 2002.*

29 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0165

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (d), what is meant by "clean" in this context?*

*In (g), approved by whom? What are these "federal and State rules and regulations"?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road,

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0165 is readopted as published in 36:03 NCR 169-170 as follows:

2  
3 **15A NCAC 18A .0165 PACKING**

4 (a) Crustacea meat shall be packed in a ~~container, container and~~ iced and cooled to an internal temperature of 40° F  
5 (4.4° C) or below within two hours of receipt in the packing room.

6 (b) The storage of ice in the packing room shall be in an easily cleanable, non-corrosive, non-toxic container.

7 (c) Blending or combining of any of the following shall be prohibited:

8 (1) ~~Fresh-fresh~~ crustacea ~~meat-meat~~;

9 (2) ~~Frozen-frozen~~ crustacea ~~meat-meat~~;

10 (3) ~~Pasteurized-pasteurized~~ crustacea ~~meat-meat~~; and

11 (4) ~~Crustacea-crustacea~~ meat packed in another facility.

12 (d) Clean shipping containers shall be provided by the owner or responsible person for storing and shipping of packed  
13 crustacea meat.

14 (e) The return of overage of crustacea meat to a picker shall be prohibited.

15 (f) Washing of picked crustacea meat shall be under running potable water. The crustacea meat shall be ~~thoroughly~~  
16 drained prior to packing.

17 (g) Any substance added to cooked crustacea or crustacea meat shall be approved and labeled according to ~~Federal~~  
18 federal and State rules and regulations.

19 (h) Only those individuals responsible for packing the crustacea or crustacea meat shall be allowed in the packing  
20 room or area.

21  
22 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

23 *Eff. October 1, 1992.*

24 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0166

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (a), what is considered to be "a sanitary manner"?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0166 is readopted as published in 36:03 NCR 170 as follows:

2  
3 **15A NCAC 18A .0166 PICKED CRUSTACEA MEAT REFRIGERATION**

4 (a) The refrigeration room or ice box shall be of sufficient size so that a full day's production, with ice, can be properly  
5 stored in a sanitary manner and shall be equipped with an accurate, operating thermometer.

6 (b) Ice boxes shall be easily cleanable, non-corrosive, and non-toxic with an impervious lining and a drain.

7 (c) Picked crustacea meat shall be stored ~~between 33° F (0.5° C) and 40° F (4.4° C)~~ at 40° F (4.4° C) or below.

8  
9 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

10 *Eff. October 1, 1992.*

11 *Readopted Eff. April 1, 2022.*



## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0168

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (f), what is meant by "in a manner to prevent contamination"?*

*In (g), what is meant by "or the equivalent" in this context?*

*In (g), delete or delete "prominently"*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0168 is readopted as published in 36:03 NCR 170 as follows:

2  
3 **15A NCAC 18A .0168 SINGLE-SERVICE CONTAINERS**

4 (a) Single-service containers used for packing or repacking cooked crustacea and crustacea meat shall be made from  
5 ~~food safe~~ food-safe materials approved by the United States Food and Drug Administration.

6 (b) Containers shall not be reused for packing or repacking cooked crustacea and crustacea meat.

7 (c) No person shall use containers bearing a permit number other than the number assigned to the facility.

8 (d) Each container or lid shall be legibly impressed, ~~embossed~~ embossed, or lithographed with the name and address  
9 of the original packer, ~~repacker~~ repacker, or distributor. The original packer's or repacker's permit number preceded  
10 by the state abbreviation shall be legibly impressed, ~~embossed~~ embossed, or lithographed on each container or lid.

11 (e) Each container or lid shall be permanently and legibly identified with a code date.

12 (f) All containers and lids shall be stored and handled ~~in accordance with these Rules, in a manner to prevent~~  
13 contamination, sanitized by a procedure as stated in Rule .0157 of this ~~Section~~ Section, and drained prior to filling.

14 (g) All containers shall be sealed so that tampering can be detected. The words "Sealed For Your Protection" or  
15 equivalent shall be prominently displayed on the container or lid.

16  
17 *History Note: Authority G.S. ~~1304-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

18 *Eff. October 1, 1992;*

19 *Amended Eff. August 1, 1998; February 1, 1997.*

20 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0173

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (b), how does this work? Must they keep this list current with you all and provide an updated list whenever something changes? Must they provide it upon request?*

*In (c)(3), what is meant by "cleaned" in this context?*

*What is the intent of (c)(7)? Are these the original containers that were used for the meat that is repacked?*

*In (d)(5), what is your authority for this provision? I see that G.S. 113-221.2 allows you to regulate crustacea shipped into North Carolina. Is that the intent here?*

*In (d)(5), what are the federal labeling requirements? Is the intent to incorporate this by reference in accordance with G.S. 150B-21.6?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0173 is readopted as published in 36:03 NCR 170-171 as follows:

2  
3 **15A NCAC 18A .0173 REPACKING**

4 (a) Crustacea meat for repacking ~~which-that~~ is processed in North Carolina shall comply with Rules .0134 through  
5 .0187 of this Section. Crustacea meat for repacking ~~which-that~~ is processed outside of North Carolina shall comply  
6 with Rule .0182 of this Section. ~~Quarterly bacteriological reports shall be provided to the Division by the repacker of~~  
7 ~~all foreign crustacea meat for repacking.~~

8 (b) The repacker shall provide the Division of Marine Fisheries a current written list of all sources of crustacea meat  
9 used for repacking.

10 (c) Repacking of crustacea meat:

- 11 (1) Crustacea meat shall not exceed ~~45° F (7.1° C)~~ 40° F (4.4° C) during the repacking process.
- 12 (2) Repacking shall be conducted separately by time or space from the routine crustacea meat picking  
13 and packing process.
- 14 (3) The food contact surfaces and utensils utilized in the repacking process shall be cleaned and  
15 sanitized prior to repacking and thereafter on ~~30-minute~~ 30-minute intervals during repacking.
- 16 (4) Repacked crustacea meat shall be maintained at or below 40° F (4.4° C).
- 17 (5) Blending or combining of any of the following shall be prohibited:
- 18 (A) ~~Fresh-fresh~~ crustacea meat.
- 19 (B) ~~Frozen-frozen~~ crustacea meat.
- 20 (C) ~~Pasteurized-pasteurized~~ crustacea meat.
- 21 (D) ~~Crustacea-crustacea~~ meat packed in another facility.
- 22 (6) Crustacea meat shall not be repacked more than one time.
- 23 (7) All empty containers shall be rendered unusable.

24 (d) Labeling of repacked crustacea meat:

- 25 (1) Each container shall be legibly embossed, ~~impressed~~ impressed, or lithographed with the repacker's  
26 or the distributor's name and address.
- 27 (2) Each container shall be legibly embossed, ~~impressed~~ impressed, or lithographed with the repacker's  
28 certification number followed by the letters "RP."
- 29 (3) Each container shall be permanently and legibly identified with a code indicating the repack date.
- 30 (4) Each container shall be sealed so that tampering can be detected.
- 31 (5) Each container of foreign crustacea meat ~~which-that~~ has been repacked outside of North Carolina  
32 shall be labeled in accordance with ~~Federal~~ federal labeling requirements.

33 (e) Records shall be kept for all purchases of crustacea meat for repacking and sales of repacked meat for one year.  
34 The records shall be available for inspection by the Division.

35  
36 *History Note:* Authority G.S. 1304-230; 113-134; 113-182; 113-221.2; 143B-289.52;  
37 Eff. October 1, 1992;

- 1 *Amended Eff. August 1, 2002; April 1, 1997;*
- 2 *Readopted Eff. (Pending legislative review of 15A NCAC 03L .0210).*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0174

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (a), what is meant by "to give a true representation of the operating temperature"? Would it suffice to say something like "... to provide the operating temperature..."*

*In (f), please consider changing "falsification of a thermometer chart shall not occur" to say who shall do what.*

*Please end (f)(1) through (6) with semi-colons, rather than a period and add an "and" at the end of (f)(6).*

*In (f)(6), what is the "optimum temperature"?*

*In (i), how will it be determined whether the Division will approve these? I assume if it gives the Division the same information?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0174 is readopted as published in 36:03 NCR 171 as follows:

2  
3 **15A NCAC 18A .0174 PASTEURIZATION PROCESS CONTROLS - THERMOMETERS**

4 (a) All pasteurizing equipment shall have a time-temperature recording thermometer with a temperature controller  
5 (combined or separately) and an indicating thermometer. The thermometers shall be located to give a true  
6 representation of the operating temperature of the water bath. The recording thermometer chart shall be at least a  
7 12-hour chart and at least 10 inches in diameter.

8 (b) The recording thermometer shall be installed so that it will be protected from vibration and from striking by  
9 loading operations or facility traffic. The thermometer mechanism shall be protected from moisture under prevailing  
10 conditions. The thermometer case shall not be opened during the pasteurizing cycle, except for temperature check or  
11 for emergency or repair. A record shall be made when the thermometer case has been opened.

12 (c) The recording thermometer shall have a range of at least 120-220° F (48.9-104.4° C). It shall be accurate within  
13 plus or minus 1° F between 160° F (71° C) and 200° F (93° C). The chart shall be scaled at a maximum of 2° F  
14 intervals in the range of 160° F (71° C) and 200° F (93° C).

15 (d) The indicating thermometer shall be a thermometer with an accuracy and readability of plus or minus 1° F between  
16 160° F (71° C) and 200° F (93° C). The thermometer shall be protected against damage.

17 (e) The recording thermometer shall be equipped with a spring-operated or electrically operated clock. The recorded  
18 elapsed time as indicated by the chart rotation shall not exceed the true elapsed time as shown by an accurate watch.  
19 The rotating chart support shall be provided with pins upon which the chart shall be affixed by puncturing the chart.

20 (f) The pasteurization unit shall not be operated without a recording thermometer chart in place, the pen in contact  
21 with the ~~chart-chart,~~ and an inked record being made of the operating time-temperature cycle. ~~Any indication of~~  
22 ~~falsification of a thermometer chart shall constitute a violation.~~ Falsification of a thermometer chart shall not occur.

23 A permanent file of the used thermometer charts shall be maintained by the pasteurizer and kept available for  
24 inspection by the Division of Marine Fisheries for a period of one year. The following information shall be recorded  
25 within the confines of the pen markings after the pasteurization cycle has been completed:

- 26 (1) ~~Date-date~~ of pasteurization.
- 27 (2) ~~Quantity-quantity~~ of each batch pasteurized (pounds of crustacea meat or number and size of  
28 containers).
- 29 (3) ~~Processor's-processor's~~ code of each pack.
- 30 (4) ~~If-if~~ the pasteurizer processes crustacea meat for someone else, then the packer's name, ~~address~~  
31 ~~address,~~ and permit number ~~must-shall~~ be recorded. A copy of the recording chart shall be provided  
32 to the owner of the crustacea meat.
- 33 (5) ~~Notation-notation~~ of mechanical or power failure or opening of the recording thermometer case for  
34 adjustment or repair during the pasteurizing cycle.
- 35 (6) ~~After-after~~ the optimum temperature in the water bath has been reached and during the holding time,  
36 the reading of the indicating thermometer and the time of reading shall be recorded on the chart.
- 37 (7) ~~Signature-signature~~ of the pasteurizer operator.

- 1 (g) A constant flow steam control valve is required, if steam is used as a source of heat.
- 2 (h) The water bath shall be provided with effective agitation to maintain a uniform temperature.
- 3 (i) Other technologies that provide the data, ~~information-information~~, and records as required in this Rule may be
- 4 used if approved by the Division.

5

6 *History Note: Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52;*

7 *Eff. October 1, 1992;*

8 *Amended Eff. April 1, 1997;*

9 *Readopted Eff. April 1, 2022.*



## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0175

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*Please end Items (1) and (2) with semi-colons, rather than periods, and add an "and" at the end of (2).*

*In Item of (2), how will it be determined whether something was done "as quickly as possible"?*

*In Item (3), what is meant by "immediately" here?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0175 is readopted as published in 36:03 NCR 171 as follows:

2  
3 **15A NCAC 18A .0175 PREPARATION OF CRUSTACEA MEAT FOR PASTEURIZATION**

4 The preparation of crustacea meat for pasteurization shall be in compliance with the following:

- 5 (1) ~~Crustacea~~ crustacea meat shall be prepared in compliance with Rules .0134 through .0183 of this  
6 Section.  
7 (2) ~~The~~ the containers of crustacea meat shall be sealed as quickly as possible after the crustacea meat  
8 is picked.  
9 (3) ~~The~~ the sealed ~~container~~ containers of crustacea meat shall be placed immediately in ice and  
10 refrigerated until pasteurized.

11  
12 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*  
13 *Eff. October 1, 1992;*  
14 *Amended Eff. April 1, 1997;*  
15 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0176

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*In (a), what factors is the Division to use in determining whether to approve the report? Is the report as defined in .0134 to be approved or is it the pasteurization operation? If it's the pasteurization operation, will it be approved if the report indicates the operation will result in compliance with this Rule?*

*Please end (b)(1) through (3) with semi-colons, rather than periods, and end (b)(3) with an "and"*

*In (b)(2), in this context, what is meant by "alteration of the... loading of containers"? Does the report require that they say how the containers are going to be loaded?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0176 is readopted as published in 36:03 NCR 171-172 as follows:

2  
3 **15A NCAC 18A .0176 PASTEURIZATION OF CRUSTACEA MEAT**

4 (a) All pasteurization operations shall require a Process Validation Study Report approved by the Division of Marine  
5 Fisheries prior to operation.

6 (b) The pasteurization of crustacea meat shall be conducted in compliance with the following: following procedures:

- 7 (1) ~~The the~~ minimum pasteurization specifications shall be ~~the raising of the internal temperature of the~~  
8 ~~container heating every particle~~ of crustacea meat ~~in a hermetically-sealed container~~ to a temperature  
9 ~~of at least 185° F (85° C) and holding it continuously at that or above this~~ temperature for at least  
10 one minute at the geometric center of a ~~container~~ container in equipment being operated in  
11 compliance with the Process Validation Study Report. Each set of pasteurizing equipment shall be  
12 standardized so that the minimum pasteurization procedure in this Subparagraph can be obtained.  
13 The pasteurization procedure shall be performed in accordance with the standardization report. This  
14 process. A copy of the procedures for operating the pasteurizing equipment shall also be posted  
15 adjacent to the pasteurization vat. The pasteurizer shall keep on file the standardization report on  
16 file and shall provide the Division a copy of such report.  
17 (2) ~~Alteration~~ alteration of the equipment or loading of containers shall require ~~the procedure be~~  
18 ~~restandardized~~ a new Process Validation Study Report.  
19 (3) ~~The the~~ containers of crustacea meat shall be cooled to 50° F (10° C) or below within three ~~hours.~~  
20 hours of the completion of pasteurization.  
21 (4) ~~Refrigerated~~ refrigerated storage shall be provided for the cooled crustacea meat and shall maintain  
22 a storage temperature at or below ~~36° F (2.2° C).~~ 38° F (3.3° C).

23  
24 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*  
25 *Eff. October 1, 1992;*  
26 *Amended Eff. August 1, 1998;*  
27 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0177

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*Please end Items (1) through (3) with semi-colons, rather than periods, and add an "and" at the end of Item (3).*

*In Item (1), delete or define "clearly"*

*In Item (3), what is considered to be an "equivalent" here?*

*In Item (3), delete or define "prominently"*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0177 is readopted as published in 36:03 NCR 172 as follows:

2  
3 **15A NCAC 18A .0177 LABELING OF PASTEURIZED CRUSTACEA MEAT**

4 Labeling of pasteurized crustacea meat shall be in compliance with the following:

- 5 (1) ~~The the~~ label used shall clearly identify the contents of the container as pasteurized crustacea meat.
- 6 (2) ~~Each each~~ container shall be permanently and legibly identified with a code indicating the batch and  
7 day of processing.
- 8 (3) ~~The the~~ words "Perishable-Keep Under ~~Refrigeration~~", or equivalent, Refrigeration" or equivalent  
9 shall be prominently displayed on the container.
- 10 (4) ~~The the~~ original packer's or repacker's permit number preceded by the state abbreviation shall be  
11 legibly impressed, ~~embossed-embossed~~, or lithographed on each container. Each container shall be  
12 legibly impressed, ~~embossed-embossed~~, or lithographed with the name and address of the original  
13 packer, ~~repacker-repacker~~, or distributor.

14  
15 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*  
16 *Eff. October 1, 1992;*  
17 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0178

**DEADLINE FOR RECEIPT: January 14, 2022**

**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 call our office to inquire concerning the staff recommendation.

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

*Is the process to request approval for interfacility pasteurization and the standards that the Division is to use whether to approve the request set forth elsewhere in rule or statute?*

*Please end Items (1) and (2) with semi-colons and add an "and" at the end of (2).*

*In Item (1), what is to be included in the records? Is this set forth elsewhere in rule?*

*In Item (3), what is to be included in the pasteurization chart? Is this up to the pasteurizer?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0178 is readopted as published in 36:03 NCR 172 as follows:

2  
3 **15A NCAC 18A .0178 INTERFACILITY PASTEURIZATION PROCEDURES**

4 No person shall initiate interfacility pasteurization of crustacea meat without prior written approval by the ~~Division.~~  
5 Division of Marine Fisheries. Interfacility pasteurization of crustacea meat shall be in ~~conjunction-compliance~~ with  
6 the following:

- 7 (1) ~~Crustacea~~ crustacea meat shall be packed, ~~labeled~~ labeled, and refrigerated in compliance with Rules  
8 .0134 through .0182 of this Section. Records shall be maintained to identify each batch of crustacea  
9 meat pasteurized.
- 10 (2) ~~Crustacea~~ crustacea meat shall be shipped in an enclosed, easily cleanable vehicle at a temperature  
11 ~~between 33° F (0.5° C) and of 40° F (4.4° C)-C) or below.~~
- 12 (3) ~~Crustacea~~ crustacea meat shall be pasteurized in compliance with Rules .0175 through .0177 of this  
13 Section. The pasteurizer shall provide a copy of each pasteurization chart to the original packer.

14  
15 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*  
16 *Eff. October 1, 1992;*  
17 *Readopted Eff. April 1, 2022.*



1 15A NCAC 18A .0181 is readopted as published in 36:03 NCR 172 as follows:

2  
3 **15A NCAC 18A .0181 EMBARGO OR DISPOSAL OF COOKED CRUSTACEA OR CRUSTACEA**  
4 **MEAT**

5 (a) When it has been determined by the Division of Marine Fisheries that cooked crustacea or crustacea meat have  
6 not been stored, transported, handled, cooked, picked, ~~packed~~ packed, or offered for sale in compliance with this  
7 Section, the cooked crustacea or crustacea meat shall be deemed adulterated.

8 (b) Cooked crustacea or crustacea meat ~~prepared for sale to the public~~ determined to be adulterated or ~~misbranded~~,  
9 ~~misbranded~~ shall be subject to embargo or disposal by the Division in accordance with G.S. 113-221.4, 130A-21(c).  
10 ~~The Division may embargo, condemn, destroy or otherwise dispose of all cooked crustacea or crustacea meat found~~  
11 ~~to be adulterated or misbranded.~~

12  
13 *History Note: Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 113-221.4, 143B-289.52;*  
14 *Eff. October 1, 1992;*  
15 *Amended Eff. April 1, 1997;*  
16 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0182

### **DEADLINE FOR RECEIPT:**

**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 call our office to inquire concerning the staff recommendation.

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

*What is meant by (d)? Are they just to follow the Rules of this Section?*

*In (e), do you need "found" in "... crustacea meat found not complying..." How will this be found? Upon inspection?*

*In (e), please change "with the standards as set forth in Paragraph (a), (b), (c), or (d) of this Rule..." to "with this Rule" or "with the standards set forth in this Rule."*

*In (e), line 12, by "may", do you mean "shall"? If not, how will it be determined whether they will be deemed "adulterated"?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0182 is readopted as published in 36:03 NCR 172 as follows:

2  
3 **15A NCAC 18A .0182 BACTERIOLOGICAL AND CONTAMINATION STANDARDS**

4 (a) Cooked crustacea or crustacea meat shall not exceed Escherichia coli Most Probable Number (MPN) of 36 per  
5 100 grams of sample or exceed a standard plate count of 100,000 per gram.

6 (b) Pasteurized crustacea meat shall contain no Escherichia coli or fecal coliform. Samples of pasteurized crustacea  
7 meat, taken within 24 hours of pasteurizing, shall not have a standard plate count of more than 3,000 per gram.

8 (c) Thermally processed crustacea or crustacea meat shall not exceed Escherichia coli MPN of 36 per 100 grams of  
9 sample or exceed a standard plate count of 100,000 per gram.

10 (d) Cooked crustacea or crustacea meat shall not be handled in a manner to make it an imminent hazard.

11 (e) Cooked crustacea or crustacea meat found not complying with the standards as ~~stated~~ set forth in Paragraph (a),

12 (b), ~~(c)~~ or (d) of this Rule may be deemed adulterated by the ~~Division~~ Division of Marine Fisheries.

13  
14 *History Note: Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52;*

15 *Eff. October 1, 1992;*

16 *Amended Eff. August 1, 1998; February 1, 1997;*

17 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0183

### **DEADLINE FOR RECEIPT:**

**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 call our office to inquire concerning the staff recommendation.

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

*On line 4, what is meant by "durable" in this case?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0183 is readopted as published in 36:03 NCR 173 as follows:

2  
3 **15A NCAC 18A .0183 ALTERNATIVE LABELING**

4 A durable label, permanently affixed to the ~~container~~ container, may be used to meet any labeling requirement in this  
5 Section.

6  
7 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

8 *Eff. October 1, 1992.*

9 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0184

### **DEADLINE FOR RECEIPT:**

**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 call our office to inquire concerning the staff recommendation.

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

*In (a), what is meant by "to give a true representation of the operating temperature"? Would it suffice to say something like "... to provide the operating temperature.."*

*In (f), please consider changing "falsification of a thermometer chart shall not occur" to say who shall do what.*

*Please end (f)(1) through (6) with semi-colons, rather than a period and add an "and" at the end of (f)(6).*

*In (f)(6), what is the "optimum temperature"?*

*In (i), how will it be determined whether the Division will approve these? I assume if it gives the Division the same information?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0184 is readopted as published in 36:03 NCR 173 as follows:

2  
3 **15A NCAC 18A .0184 THERMAL PROCESSING CONTROLS - THERMOMETERS**

4 (a) All thermal processing equipment shall have a time-temperature recording thermometer with a temperature  
5 controller (combined or separately) and an indicating thermometer. The thermometers shall be located to give a true  
6 representation of the operating temperature of the process. The recording thermometer chart shall be at least a 12-hour  
7 chart and at least 10 inches in diameter.

8 (b) The recording thermometer shall be installed so that it will be protected from vibration and from striking by  
9 loading operations or facility traffic. The thermometer mechanism shall be protected from moisture under prevailing  
10 conditions. The thermometer case shall not be opened during the thermal processing cycle, except for temperature  
11 check or for emergency or repair. A record shall be made when the thermometer case has been opened.

12 (c) The recording thermometer shall have a range of at least 120-220° F (48.9-104.4° C). It shall be accurate within  
13 plus or minus 1° F between 160° F (71° C) and 200° F (93° C). The chart shall be scaled at a maximum of 2° F  
14 intervals in the range of 160° F (71° C) and 200° F (93° C).

15 (d) The indicating thermometer shall be a thermometer with an accuracy and readability of plus or minus 1° F between  
16 160° F (71° C) and 200° F (93° C). The thermometer shall be protected against damage.

17 (e) The recording thermometer shall be equipped with a spring-operated or electrically operated clock. The recorded  
18 elapsed time as indicated by the chart rotation shall not exceed the true elapsed time as shown by an accurate watch.  
19 The rotating chart support shall be provided with pins upon which the chart shall be affixed by puncturing the chart.

20 (f) The thermal processing unit shall not be operated without a recording thermometer chart in place, the pen in  
21 contact with the ~~chart~~ chart, and an inked record being made of the operating time-temperature cycle. ~~Any indication~~  
22 ~~of falsification of a thermometer chart shall constitute a violation. Falsification of a thermometer chart shall not occur.~~

23 A permanent file of the used thermometer charts shall be maintained by the thermal processor and kept available for  
24 inspection by the Division of Marine Fisheries for a period of one year. The following information shall be recorded  
25 within the confines of the pen markings after the thermal processing cycle has been completed:

- 26 (1) ~~Date~~ date of thermal processing.
- 27 (2) ~~Quantity~~ quantity of each batch thermally processed (pounds of crustacea meat or number and size  
28 of containers).
- 29 (3) ~~Thermal~~ thermal processor's code of each pack.
- 30 (4) ~~If~~ if the thermal processor processes crustacea meat for someone else, then the packer's name,  
31 ~~address~~ address, and permit number ~~must~~ shall be recorded. A copy of the recording chart shall be  
32 provided to the owner of the crustacea meat.
- 33 (5) ~~Notation~~ notation of mechanical or power failure or opening of the recording thermometer case for  
34 adjustment or repair during the thermal processing cycle.
- 35 (6) ~~After~~ after the optimum temperature in the thermal process has been reached and during the holding  
36 time, the reading of the indicating thermometer and the time of reading shall be recorded on the  
37 chart.

- 1           (7)     ~~Signature~~signature of the thermal process operator.
- 2     (g) A constant flow steam control valve is required, if steam is used as a source of heat.
- 3     (h) The thermal processing unit shall be provided with effective and uniform temperature.
- 4     (i) Other technologies that provide the data, ~~information~~information, and records as required in this Rule may be
- 5     used if approved by the Division.
- 6
- 7     *History Note:     Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*
- 8                     *Eff. April 1, 1997;*
- 9                     *Readopted Eff. April 1, 2022.*



## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0185

### **DEADLINE FOR RECEIPT:**

**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 call our office to inquire concerning the staff recommendation.

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

*In (a), what factors is the Division to use in determining whether to approve the report? Is the report as defined in .0134 to be approved or is it the thermal processing operation? If it's the operation, will it be approved if the report indicates the operation will result in compliance with this Rule?*

*Please end (b)(1) through (3) with semi-colons, rather than periods, and end (b)(3) with an "and"*

*In (b)(2), in this context, what is meant by "alteration of the... loading of containers"? Does the report require that they say how the containers are going to be loaded?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0185 is readopted as published in 36:03 NCR 173-174 as follows:

2  
3 **15A NCAC 18A .0185 THERMAL PROCESSING OF CRUSTACEA AND CRUSTACEA MEAT**

4 (a) All thermal processing operations shall require a Process Validation Study Report approved by the Division of  
5 Marine Fisheries prior to operation.

6 (b) The thermal processing of crustacea or crustacea meat shall be conducted in compliance with the  
7 following: following procedures:

- 8 (1) ~~The the~~ minimum thermal processing specifications shall be the ~~raising of the internal heating of~~  
9 ~~previously cooked temperature of the container of~~ crustacea or crustacea meat to a desired  
10 temperature ~~and for a specified time at the geometric center of a container.~~ container in equipment  
11 being operated in compliance with the Process Validation Study Report. Each set of thermal  
12 processing equipment shall be standardized so that the minimum procedure can be obtained. The  
13 thermal process procedure shall be performed in accordance with the standardization report. This  
14 process. A copy of the procedures for operating the thermal processing equipment shall also be  
15 posted adjacent to the thermal processing unit. The thermal processor shall keep on file the  
16 standardization report on file and shall provide the Division a copy of such report.  
17 (2) ~~Alteration~~ alteration of the equipment or loading of containers shall require ~~the procedure be~~  
18 ~~restandardized.~~ a new Process Validation Study Report.  
19 (3) ~~The the~~ containers of crustacea or crustacea meat shall be cooled to 50° F (10° C) or below within  
20 three ~~hours.~~ hours of the completion of the thermal process.  
21 (4) ~~Refrigerated~~ refrigerated storage shall be provided for the cooled crustacea or crustacea meat and  
22 shall maintain a storage temperature at or below 36° F (2.2° C).

23  
24 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*  
25 *Eff. August 1, 1998;*  
26 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0186

### **DEADLINE FOR RECEIPT:**

**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 call our office to inquire concerning the staff recommendation.

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

*Please end Items (1) through (3) with semi-colons, rather than periods, and add an "and" at the end of Item (3).*

*In Item (1), delete or define "clearly"*

*In Item (3), what is considered to be an "equivalent" here?*

*In Item (3), delete or define "prominently"*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0186 is readopted as published in 36:03 NCR 174 as follows:

2  
3 **15A NCAC 18A .0186 LABELING OF THERMALLY PROCESSED CRUSTACEA OR CRUSTACEA**  
4 **MEAT**

5 Labeling of thermally processed crustacea or crustacea meat shall be in compliance with the following:

- 6 (1) ~~The the~~ label used shall clearly identify the contents of the container as thermally processed  
7 crustacea or crustacea meat.
- 8 (2) ~~Each each~~ container shall be permanently and legibly identified with a code indicating the batch and  
9 day of processing.
- 10 (3) ~~The the~~ words "Perishable-Keep Under Refrigeration" or equivalent shall be prominently displayed  
11 on the container.
- 12 (4) ~~The the~~ original packer's or repacker's permit number preceded by the state abbreviation shall be  
13 legibly impressed, ~~embossed embossed~~, or lithographed on each container. Each container shall be  
14 legibly impressed, ~~embossed embossed~~, or lithographed with the name and address of the original  
15 packer, ~~repacker repacker~~, or distributor.

16  
17 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*  
18 *Eff. April 1, 1997;*  
19 *Readopted Eff. April 1, 2022.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0187

### **DEADLINE FOR RECEIPT:**

**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 call our office to inquire concerning the staff recommendation.

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

*Please end Items (1) and (2) with semi-colons, rather than periods, and add an "and" at the end of Item (2).*

*In Item (1), what is to be included in the records? Is this set forth elsewhere in rule?*

*In Item (3), what is to be included in the thermal processing chart? Is this up to the processor?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0187 is readopted as published in 36:03 NCR 174 as follows:

2  
3 **15A NCAC 18A .0187 INTERFACILITY THERMAL PROCESSING PROCEDURES**

4 Interfacility thermal processing of crustacea or crustacea meat shall be in ~~conjunction compliance~~ with the following:

- 5 (1) ~~Crustacea~~ crustacea or crustacea meat shall be packed, ~~labeled~~ labeled, and refrigerated in  
6 compliance with Rules .0134 through .0187 of this Section. Records shall be maintained to identify  
7 each batch of crustacea or crustacea meat thermally processed.
- 8 (2) ~~Crustacea~~ crustacea or crustacea meat shall be shipped in an enclosed, easily cleanable vehicle at a  
9 temperature ~~between 33° F (0.5° C) and of 40° F (4.4° C).~~ C) or below.
- 10 (3) ~~Crustacea~~ crustacea or crustacea meat shall be thermally processed in compliance with Rules .0184  
11 through .0187 of this Section. The thermal processor shall provide a copy of each thermal processing  
12 chart to the original packer.

13  
14 *History Note:* Authority G.S. 130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;  
15 Eff. August 1, 1998;  
16 Readopted Eff. April 1, 2022.

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Marine Fisheries Commission

RULE CITATION: 15A NCAC 18A .0191

### **DEADLINE FOR RECEIPT:**

**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 call our office to inquire concerning the staff recommendation.

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

*What are "general sanitation requirements"? I assume those set forth in these Rules? If so, please make that clear.*

*Just to be clear, will the monitoring records as set forth in the plan be different for each dealer? If not, do these requirements meet the definition of a rule as set forth in 150B-2(8a)? Alternatively, are these the records required to be maintained by these Rules?*

*Is the owner or designee the same as the dealer referenced in .0134(13)?*

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

Amber May  
Commission Counsel  
Date submitted to agency: December 30, 2021

1 15A NCAC 18A .0191 is readopted as published in 36:03 NCR 174 as follows:

2  
3 **15A NCAC 18A .0191 MONITORING RECORDS**

4 Monitoring records of critical control points and general sanitation requirements shall be recorded, as specified in  
5 ~~plan, the HACCP Plan, and~~ signed and dated when recorded. The records shall be reviewed by the owner or designee  
6 within one week of recording.

7  
8 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

9 *Eff. August 1, 2000.*

10 *Readopted Eff. April 1, 2022.*