

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

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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.

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20 *History Note: Authority G.S. 113-134; 113-181; 113-182; ~~113-185;~~ 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.*

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

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

4 (a) In accordance with G.S. 113-267, this Rule shall apply to replacement costs of fish that have been taken, injured,
5 removed, harmfully altered, damaged, or destroyed. Fish, as used throughout this Rule, is defined in G.S. 113-129(7).

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

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

21 (1) the cost of propagating and rearing the species in a hatchery and the cost of transporting them to
22 areas of suitable habitat; or

23 (2) the average annual ex-vessel value of fish species per pound.

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

31 (1) whether the species is classified as endangered or threatened;

32 (2) the relative frequency of occurrence of the species in the state:State;

33 (3) the extent of existing habitat suitable for the species within the state:State;

34 (4) the dependency of the species on unique habitat requirements;

35 (5) the cost of improving and maintaining suitable habitat for the species;

36 (6) the cost of capturing the species in areas of adequate populations and transplanting them to areas of
37 suitable habitat with low populations;

- (7) the availability of the species and the cost of acquisition for restocking purposes;
- (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;

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

- (70) Octopus;
- (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~~ **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

- 1 (ii) the then current rate per mile for travel by ~~privately owned~~ privately-owned
2 vehicle, as applicable;
3 (C) boat and motor: ten dollars (\$10.00) per hour;
4 (D) uniform and clothing cleaning and repair: actual cost;
5 (E) telephonic communications: actual cost; and
6 (F) other expenses: actual cost.
7

8 *History Note:* Authority G.S. 113-134; 113-182; 113-267; 143B-289.52;
9 *Eff. March 1, 1995*;
10 *Recodified from 15A NCAC 31 .0015 Eff. December 17, 1996*;
11 *Readopted Eff. April 1, 2022.*

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

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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 made 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.

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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.*

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

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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-yellow~~, except ~~that~~ one additional buoy, any
26 shade of hot pink in color, constructed as specified in this Paragraph, shall be added at each end of each individual
27 net. Any other marking buoys on gill nets used in commercial fishing operations shall be ~~yellow-yellow~~, except that
28 one additional identification buoy of any color or any combination of colors, except any shade of hot pink, may be
29 used at either or both ends. The ~~owner-gear owner's last name and initials~~ shall be identified on a buoy on each end
30 ~~either~~ by using engraved buoys or by attaching engraved metal or plastic tags to the buoys. ~~Such-If a vessel is used,~~
31 ~~the~~ identification 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).*

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

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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; 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; 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; 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; W;~~ running southerly to the Cherry Branch side
33 of 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~~ ~~consistent with the requirements of~~ 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).

1 15A NCAC 03J .0106 is readopted with changes as published in 36:03 NCR 162 as follows:

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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-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-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-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-Guard~~; and
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
37 time periods ~~in order to secure compliance with~~ ~~consistent with the requirements of~~ 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).*

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).*

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
28 within 300 yards of the beach from Beaufort Inlet to the ~~South-North Carolina/South~~ Carolina ~~state~~
29 line 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
33 southeastern tip of Baldhead Island at a point ~~33° 50.4833' N – 77° 57.4667' W; 33° 50.4833' N –~~
34 ~~77° 57.4667' W;~~ running southerly in the Atlantic Ocean to a point ~~33° 46.2667' N – 77° 56.4000'~~
35 ~~W; 33° 46.2667' 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 .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-shall~~ not be used from the North Town Limit of
9 Nags 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-Day; and~~

13 (II) ~~From-from~~ November 1 through December ~~15;15; and~~

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

16 (B) Oregon ~~Inlet-Seines-Inlet: seines~~ and gill nets ~~may-shall~~ 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
22 ~~Inlet-Inlet; and~~

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

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

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

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

35 (B) Surf City:

36 (i) ~~From-from~~ January 1 to June 30, that area around the Surf City Fishing Pier
37 bordered on the offshore side by a line 750 feet from the end of the pier, on the

- 1 southwest by a line beginning at a point on the beach one-quarter mile from the
2 pier and on the northeast by a line beginning at a point on the beach 750 feet from
3 the pier extending seaward to intersect the offshore ~~boundaries~~boundaries; and
4 (ii) ~~From from~~ July 1 to December 31, those areas around the pier bordered on the
5 offshore side by a line 750 feet from the end of the pier, on the southwest by a
6 line beginning at a point on the beach 750 feet from the pier and on the northeast
7 by a line beginning at a point on the beach one-quarter mile from the pier
8 extending seaward to intersect the offshore ~~boundaries~~boundaries;
- 9 (3) Atlantic Ocean - New Hanover ~~County~~County: Carolina Beach Inlet through Kure ~~Beach~~
10 ~~Commercial Beach~~commercial fishing gear ~~may shall~~ not be used during the times specified for
11 the following areas:
- 12 (A) ~~From from~~ the Friday before Easter to November 30, within the zones adjacent to the
13 Carolina Beach and Kure Beach Fishing Piers bordered on the offshore side by a line 750
14 feet from the ends of the piers and on the north and south by a line beginning at a point on
15 the beach one-quarter mile from the pier extending seaward to intersect the offshore
16 boundary, except the southern boundary for Kure Beach Pier is a line beginning on the
17 beach one mile south of the pier to the offshore boundary for the ~~pier~~pier; and
18 (B) ~~From from~~ May 1 to November 30, within 900 feet of the beach, from Carolina Beach Inlet
19 to the southern end of Kure Beach with the following exceptions:
- 20 (i) ~~From from~~ one-quarter mile north of Carolina Beach Fishing pier to Carolina
21 Beach Inlet from October 1 to November 30:
- 22 (I) ~~Strike strike~~ nets may be used within 900 feet of the beach; ~~and~~
23 (II) ~~Attended attended~~ nets may be used between 900 feet and one-quarter
24 mile of the ~~beach~~beach;
- 25 (ii) ~~Strike strike~~ nets and attended gill nets may be used within 900 feet of the beach
26 from October 1 to November 30 in other areas except those described in Part
27 (a)(3)(A) and Subpart (a)(3)(B)(i) of this ~~Rule~~Subparagraph; ~~and~~
28 (iii) ~~It is it shall be~~ unlawful to use commercial fishing gear within 900 feet of the
29 beach from Carolina Beach Inlet to a point on the beach 33°55.0026' N –
30 77°56.6630' W near the former location of New Inlet during the October surf
31 fishing tournament in Carolina ~~Beach~~Beach; and
- 32 (4) Pamlico River – Beaufort ~~County~~County: Goose Creek State ~~Park~~Commercial Park; ~~commercial~~
33 fishing gear ~~may shall~~ not be used from the Friday before Easter through December 31 for the
34 following areas:
- 35 (A) ~~Within within~~ 150 feet of the shoreline within park boundaries; ~~and~~
36 (B) ~~Within within~~ the marked channel from Dinah Landing to the mouth of Upper Goose
37 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 shall~~ 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. Bay; and~~
 - (B) ~~Within within~~ South ~~River. River;~~
- (2) Cape Lookout, Carteret County:
 - (A) ~~Gill gill~~ nets or seines ~~may shall~~ not be used in the Atlantic Ocean within 300 feet of the Rock Jetty (at Cape Lookout between Power Squadron Spit and Cape ~~Point). Point); and~~
 - (B) ~~Seines may seines shall~~ 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 ~~30.30;~~
- (3) State ~~Parks/Recreation Areas: [parks/recreation]~~ parks and recreation areas:
 - (A) ~~Gill gill~~ nets or seines ~~may shall~~ not be used in the Atlantic Ocean within one-quarter mile of the shore at Fort Macon State Park, Carteret ~~County. County;~~
 - (B) ~~Gill gill~~ nets or seines ~~may shall~~ 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 ~~15.15; and~~
 - (C) ~~Gill gill~~ nets or seines ~~may shall~~ not be used within the boat basin and marked entrance channel at Carolina Beach State Park, New Hanover ~~County. County;~~
- (4) ~~Mooring Facilities/Marinas. Gill mooring [facilities/marinas:]~~ facilities and marinas: gill nets or seines ~~may shall~~ 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;
 - (D) Harbor Village Marina on Topsail Sound, Pender County; and
 - (E) ~~Marina marina~~ and entrance canal within Carolina Marlin Club property adjacent to Newport River, Carteret ~~County. County;~~
- (5) Masonboro ~~Inlet. Gill Inlet: gill~~ nets and seines ~~may shall~~ 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~~Creek;

(6) Atlantic Ocean ~~Fishing Piers~~At fishing piers: at a minimum, gill nets and seines ~~may~~shall not be used within 300 feet of ocean fishing piers when open to the public. If a larger closed area has been delineated by the placement of buoys or beach markers as authorized by G.S. 113-185(a), it ~~is~~shall be unlawful to fish from vessels or with nets within the larger marked ~~zone~~zone;

(7) Topsail Beach, Pender ~~County~~County: ~~It is~~County: ~~it shall be~~ unlawful to use gill nets and seines from 4:00 p.m. Friday until 6:00 a.m. the following Monday in the three finger canals on the south end of Topsail ~~Beach~~Beach;

(8) Mad Inlet to Tubbs Inlet - Atlantic Ocean, Brunswick ~~County~~County: ~~It is~~County: ~~it shall be~~ unlawful to use gill nets and seines from September 1 through November 15, except that a maximum of four commercial gill nets per vessel not to exceed 200 yards in length individually or 800 yards in combination may be ~~used~~used; and

(9) Spooners Creek, Carteret ~~County~~County: ~~It is~~County: ~~it shall be~~ unlawful to use gill nets and seines between sunset and sunrise in Spooners Creek entrance channel in Bogue Sound, all of Spooners Creek ~~proper~~proper, and the adjoining tributary canals and channels.

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

1 15A NCAC 03L .0207 is readopted with changes 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]~~ **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.*

1 15A NCAC 03L .0210 is adopted with changes 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. For the purpose of this Rule,
5 "foreign" shall mean any place or location outside the United States. This Rule shall apply to all facilities and persons
6 permitted in accordance with 15A NCAC 18A .0135. This Rule [does-]shall not apply to crab meat that has been
7 transformed into another product, such as crab cakes or other value-added products.

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

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

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

2
3 **SECTION .0300 – LOBSTER**
4

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.]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.

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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).

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] 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 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 defined~~ in G.S. 106-129 ~~means shall include~~ 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) "Clean" means free from dirt, debris, dust, marks, stains, waste materials, litter, or foreign material.

14 (2)(3) "Code date" means the date conspicuously legibly placed on the container to indicate the date that
15 the product was packed.

16 (3)(4) "Cook" means to prepare or treat raw crustacea by heating.

17 (4)(5) "Critical control point" means a point, ~~step step~~, or procedure in a food process at which a control
18 can be ~~applied, applied~~ and a food safety hazard ~~can can~~, as a ~~result result~~, be prevented, ~~eliminated~~
19 eliminated, or reduced to acceptable levels.

20 (5)(6) "Critical limit" means the maximum or minimum value to which a physical, biological biological,
21 or chemical chemical, or physical parameter ~~must shall~~ be controlled at a critical control point to
22 prevent, ~~eliminate eliminate~~, or reduce to an acceptable level the occurrence of the identified food
23 safety hazard.

24 (6)(7) "Crustacea meat" means the meat of crabs, lobster, ~~shrimp shrimp~~, or crayfish.

25 (7)(8) "Division" means the Division of ~~Environmental Health or its authorized agent~~ Marine Fisheries.

26 (8)(9) "Easily cleanable" ~~[means a surface that is readily accessible and made of such materials, has a~~
27 ~~finish, and is so fabricated that residues may be effectively removed by normal cleaning~~
28 ~~methods.]~~ has the same meaning as defined in the 2017 U.S. Food Code. This definition is
29 incorporated by reference not including subsequent amendments and editions. A copy of the
30 reference material can be found at <https://www.fda.gov/food/fda-food-code/food-code-2017>, at no
31 cost.

32 (8)(9)(10) "Food-contact surface" means the parts of equipment, including auxiliary equipment, ~~which~~
33 ~~that~~ may be in contact with the food being processed, or ~~which that~~ may drain into the portion of
34 equipment with which food is in contact.

35 (9)(40)(11) "Food safety hazard" means any biological, ~~chemical chemical~~, or physical property that may
36 cause a food to be unsafe for human consumption.

37 (10)(44)(12) "Foreign" means any place or location outside the United States.

(11)(12)(13) "Fresh crustacea" means a live, ~~raw~~ raw, or frozen raw crab, lobster, ~~shrimp~~ shrimp, or crayfish ~~which~~ that shows no decomposition.

(14) "Good repair" means maintained in order to function as designed and without defect.

(12)(13)(15) "HACCP plan" means a written document that delineates the ~~formal~~ procedures a dealer follows to implement food safety controls.

(13)(14)(16) "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)(17) "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. has the same meaning as defined in G.S. 130A-2.

(15)(16)(18) "Internal temperature" means the temperature of the product as opposed to the ambient temperature.

(16)(17)(19) "Misbranded" as ~~used~~ defined in G.S. 106-130 ~~means~~ shall include any container of cooked crustacea or crustacea meat ~~which~~ that is not labeled in compliance with ~~these Rules~~ the Rules in this Section.

(18)(19)(20) "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)(21) "Operating season" means the season of the year during which a crustacea product is processed.

(18)(19)(22) "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)(23) "Pasteurization date" means a code ~~conspicuously~~ legibly 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)(24) "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.

1 (21)(23)(25) "Processing" means any of the following operations when carried out in conjunction with
2 the cooking of crustacea or crustacea meat: receiving, refrigerating, air-cooling, picking, packing,
3 repacking, thermal processing, or pasteurizing.

4 (22)(24)(26) "Repacker" means a facility ~~which~~ that repacks cooked crustacea meat into other
5 containers.

6 (23)(25)(27) "Responsible ~~person~~ individual" means the individual present in a cooked crustacea
7 facility who is the apparent supervisor of the cooked crustacea facility at the time of the inspection.
8 If no individual is the apparent supervisor, then any employee is the responsible ~~person~~ individual.

9 (26)(28) "Retort" means a pressure vessel used to cook raw crustacea.

10 (24)(27)(29) "Sanitize" ~~means a bactericidal treatment by a process which meets the temperature and~~
11 ~~chemical concentration levels in 15A NCAC 18A .2619-~~ to treat food contact surfaces by a process
12 that is effective in:

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

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

15 (c) ~~not adversely affecting the product or its safety for the consumer.~~]has the same meaning as
16 defined in 21 CFR 110.3, which is incorporated by reference including subsequent
17 amendments and editions. A copy of the reference material can be found at
18 [https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-110/subpart-A/section-](https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-110/subpart-A/section-110.3)
19 110.3, at no cost.

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

22 (26)(28)(30) "Thermal processing" means the heating of previously cooked crustacea or crustacea meat
23 to a desired temperature for a specified time at the geometric center of a container in properly
24 operated equipment. equipment being operated in compliance with the Process Validation Study
25 Report.

27 *History Note:* Authority G.S. 106-129; 106-130; 130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;
28 Eff. October 1, 1992;
29 Amended Eff. August 1, 2000; August 1, 1998; February 1, 1997;
30 Readopted Eff. April 1, 2022.

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

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

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

7 (b) No unauthorized ~~persons~~ **individuals** shall be allowed in the facility during the periods of operation. For the
8 purpose of this Rule, "unauthorized individual" shall mean an individual that is not designated and trained by the
9 owner or responsible individual to perform specific processing tasks in the facility.

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

12
13 *History Note: Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52;*

14 *Eff. October 1, 1992.*

15 *Readopted Eff. April 1, 2022.*

1 15A NCAC 18A .0145 is readopted with changes 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]~~ **individual** to keep animals, fowl, rodents, and other
5 vermin out of the facility. The storage and use of rodenticides shall comply with all applicable State and ~~Federal~~
6 federal laws and 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.*

1 15A NCAC 18A .0147 is readopted with changes 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. for analysis to the State Laboratory
10 of Public Health or other laboratory that is certified in accordance with 10A NCAC 42C .0102, which is incorporated
11 by reference including subsequent amendments.

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

16
17 *History Note: Authority G.S. ~~130A-230;~~ 113-134; 113-182; 113-221.2; 143B-289.52;*

18 *Eff. October 1, 1992;*

19 *Amended Eff. April 1, 1997;*

20 *Readopted Eff. April 1, 2022.*

1 15A NCAC 18A .0148 is readopted with changes 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
6 [contamination.]contamination and keep the ice clean.

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

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.*

1 15A NCAC 18A .0149 is readopted with changes 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, dispensers shall
21 be available near the handwash lavatories. Other hand drying devices that are found equally effective by the Division
22 of Marine Fisheries may be used.

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

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

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

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

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

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.*

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-visible places in the facility by the ~~owner~~ owner or
6 responsible [person] individual, such that the signs can be seen by employees.

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;] that is easily cleanable and
19 capable of being sanitized.

20 (h) Personnel-Employees who pick and pack cooked crustacea or crustacea meat shall have [clean] ~~[clean,]~~ short
21 fingernails, fingernails free from nail polish and that are short enough to not extend past the fingertips. Employees
22 shall not wear jewelry other than easily cleanable rings. The use of absorbent wraps or absorbent finger cots shall not
23 be permitted.

24
25 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

26 *Eff. October 1, 1992.*

27 *Readopted Eff. April 1, 2022.*

1 15A NCAC 18A .0156 is readopted with changes 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.*

1 15A NCAC 18A .0157 is readopted with changes 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~~ contamination, such as splatter of crustacea meat or juices.

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~~ contamination, such as splatter of crustacea meat or juices.

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~~ will require washing, rinsing, and sanitizing shall be washed,
23 rinsed, and sanitized.

24 (4) ~~By~~ by other equivalent products and procedures approved in 21 CFR 178.1010 "Sanitizing
25 solutions" from the "Food Service Sanitation Manual" published by the U.S. Food and Drug
26 Administration. 21 CFR 178.1010 solutions", which is hereby incorporated by reference including
27 any subsequent amendments and editions. ~~This material is available for inspection, and copies may~~
28 ~~be obtained at no cost, at the Shellfish Sanitation Branch, 3441 Arendell Street, P.O. Box 769,~~
29 ~~Morehead City, North Carolina 28557. A copy of the reference material can be found at~~
30 [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)
31 [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~~
32 ~~approved~~ approved testing method or equipment shall be available and regularly used to test chemical
33 sanitizers to ~~insure~~ ensure minimum prescribed strengths.

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

1 15A NCAC 18A .0158 is readopted with changes 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. ~~contamination~~ and keep the equipment and utensils clean.

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.*

1 15A NCAC 18A .0161 is readopted with changes 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.]use based upon documentation of the ability to produce time-temperature results as required
36 by the Rules of this Section.

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

1 15A NCAC 18A .0164 is readopted with changes 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~~ accordance with the Rules of this
5 Section such that crustacea meat does not become adulterated.

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

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

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

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

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

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

- 17 (1) ~~time temperature;~~ time-temperature requirements;
18 (2) ~~shipping destination;~~ shipping destination;
19 (3) handling;
20 (4) labeling;
21 (5) records;
22 (6) processing;
23 (7) sanitation; and
24 (8) HACCP plan.

25
26 *History Note: Authority G.S. ~~130A-230;~~ 113-134; 113-182; 113-221.2; 143B-289.52;*
27 *Eff. October 1, 1992;*
28 *Temporary Amendment Eff. July 1, 2000;*
29 *Temporary Rule Expired on March 12, 2001;*
30 *Amended Eff. August 1, 2002.*
31 *Readopted Eff. April 1, 2022.*

1 15A NCAC 18A .0165 is readopted with changes 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-]~~ individual for storing and
13 shipping of packed 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 for use by the U.S. Food and Drug
18 Administration and labeled according to ~~Federal-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.*

1 15A NCAC 18A .0166 is readopted with changes 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]~~ such that the crustacea meat does not become adulterated. ~~and The refrigeration room or~~
6 ~~ice box~~ shall be equipped with an accurate, operating thermometer.

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

8 (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.

9
10 *History Note: Authority G.S. ~~1304-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*

11 *Eff. October 1, 1992.*

12 *Readopted Eff. April 1, 2022.*

1 15A NCAC 18A .0168 is readopted with changes 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, contamination and keep them clean, sanitized by a procedure as stated in Rule .0157 of this ~~Section~~
14 Section, and drained prior to filling.

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

17
18 *History Note: Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52;*

19 *Eff. October 1, 1992;*

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

21 *Readopted Eff. April 1, 2022.*

1 15A NCAC 18A .0173 is readopted with changes 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 Upon request of the Division of Marine Fisheries, the repacker shall provide the Division [of Marine Fisheries]
9 a current written list of all sources of crustacea meat 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 from which crustacea meat was removed and repacked shall be rendered
24 unusable.

25 (d) Labeling of repacked crustacea meat:

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

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

1 *History Note:* *Authority G.S. ~~130A-230~~; 113-134; 113-182; 113-221.2; 143B-289.52;*
2 *Eff. October 1, 1992;*
3 *Amended Eff. August 1, 2002; April 1, 1997;*
4 *Readopted Eff. (Pending legislative review of 15A NCAC 03L .0210).*

1 15A NCAC 18A .0174 is readopted with changes 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~~
23 ~~occur.]~~ by an individual with access to or that is an operator of a pasteurization unit shall constitute failure to comply
24 with the requirements of this Paragraph. A permanent file of the used thermometer charts shall be maintained by the
25 pasteurizer and kept available for inspection by the Division of Marine Fisheries for a period of one year. The
26 following information shall be recorded within the confines of the pen markings after the pasteurization cycle has
27 been completed:

28 (1) ~~Date-date of~~ pasteurization-pastuerization:

29 (2) ~~Quantity-quantity of~~ each batch pasteurized (pounds of crustacea meat or number and size of
30 containers)-containers):

31 (3) ~~Processor's-processor's~~ code of each pack-pack:

32 (4) ~~If-if~~ the pasteurizer processes crustacea meat for someone else, then the packer's name, address
33 address, and permit number must-shall be recorded. A copy of the recording chart shall be provided
34 to the owner of the crustacea ~~meat-meat:~~

35 (5) ~~Notation-notation~~ of mechanical or power failure or opening of the recording thermometer case for
36 adjustment or repair during the pasteurizing cycle-cycle:

(6) ~~After~~ after the optimum temperature in the water bath has been reached and during the holding time, as set forth in Rule .0176 of this Section, the reading of the indicating thermometer and the time of reading shall be recorded on the ~~chart, chart; and~~

(7) ~~Signature~~ signature of the pasteurizer operator.

(g) A constant flow steam control valve is required, if steam is used as a source of heat.

(h) The water bath shall be provided with effective agitation to maintain a uniform temperature.

(i) Other technologies shall be approved by the Division if they are shown to ~~that~~ provide the equivalent data, ~~information~~ information, and records as required in this ~~Rule may be used if approved by the Division.~~ Rule.

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

Eff. October 1, 1992;

Amended Eff. April 1, 1997;

Readopted Eff. April 1, 2022.

1 15A NCAC 18A .0175 is readopted with changes 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.~~Section:~~
- 7 (2) ~~The~~ the containers of crustacea meat shall be sealed as quickly as possible after the crustacea meat
- 8 is ~~picked~~ picked; and
- 9 (3) ~~The~~ the sealed ~~container~~ containers of crustacea meat shall be placed immediately in ice and
- 10 refrigerated immediately after sealing 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.*

1 15A NCAC 18A .0176 is readopted with changes 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.]~~ operation based upon documentation of the ability to produce time-temperature results
6 as required by the Rules of this Section.

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

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

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

1 15A NCAC 18A .0177 is readopted with changes 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 legibly identify the contents of the container as pasteurized crustacea
6 meat.meat:
- 7 (2) ~~Each each~~ container shall be permanently and legibly identified with a code indicating the batch and
8 day of processing.processing:
- 9 (3) ~~The the~~ words "Perishable-Keep Under Refrigeration", or equivalent, Refrigeration" or equivalent
10 shall be prominently legibly displayed on the container.container; and
- 11 (4) ~~The the~~ original packer's or repacker's permit number preceded by the state abbreviation shall be
12 legibly impressed, ~~embossed embossed,~~ or lithographed on each container. Each container shall be
13 legibly impressed, ~~embossed embossed,~~ or lithographed with the name and address of the original
14 packer, ~~repacker repacker,~~ or distributor.

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

1 15A NCAC 18A .0178 is readopted with changes 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 and .0136 through .0182 of this Section and shall originate only from a facility permitted in
9 accordance with Rule .0135 of this Section. Records shall be maintained to identify each batch of
10 crustacea meat ~~pasteurized-pasteurized~~;
11 (2) ~~Crustacea-crustacea~~ meat shall be shipped in an enclosed, easily cleanable vehicle at a temperature
12 ~~between 33° F (0.5° C) and of 40° F (4.4° C).~~ C) or [below; below; and
13 (3) ~~Crustacea-crustacea~~ meat shall be pasteurized in compliance with Rules .0175 through .0177 of this
14 Section. The pasteurizer shall provide a copy of each pasteurization chart to the original packer.

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

1 15A NCAC 18A .0182 is readopted with changes 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, accordance~~
11 ~~with the Rules of this Section.~~

12 (e) Cooked crustacea or crustacea meat ~~found~~ not complying with the standards ~~as stated set forth in Paragraph (a),~~
13 ~~(b), (c), (e), or (d) of~~ this Rule may be deemed adulterated by the ~~Division.~~ Division of Marine ~~[Fisheries.] Fisheries~~
14 ~~according to the severity of exceedance and the expected threat to public health.~~

15
16 *History Note:* Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~

17 *Eff. October 1, 1992;*

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

19 *Readopted Eff. April 1, 2022.*

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

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

4 A durable label, such that it will not fade or deteriorate, that is permanently affixed to the [container] [container,] may
5 be used to meet any labeling requirement in this 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.*

1 15A NCAC 18A .0184 is readopted with changes 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~~
23 ~~occur.]~~ by an individual with access to or that is an operator of a thermal processing unit shall constitute failure to
24 comply with the requirements of this Paragraph. A permanent file of the used thermometer charts shall be maintained
25 by the thermal processor and kept available for inspection by the Division of Marine Fisheries for a period of one
26 year. The following information shall be recorded within the confines of the pen markings after the thermal processing
27 cycle has been completed:

28 (1) ~~Date~~ date of thermal ~~processing~~ processing:

29 (2) ~~Quantity~~ quantity of each batch thermally processed (pounds of crustacea meat or number and size
30 of ~~containers~~ containers):

31 (3) ~~Thermal~~ thermal processor's code of each ~~pack~~ pack:

32 (4) ~~If~~ if the thermal processor processes crustacea meat for someone else, then the packer's name,
33 ~~address~~ address, and permit number ~~must~~ shall be recorded. A copy of the recording chart shall be
34 provided to the owner of the crustacea ~~meat~~ meat:

35 (5) ~~Notation~~ notation of mechanical or power failure or opening of the recording thermometer case for
36 adjustment or repair during the thermal processing ~~cycle~~ cycle:

(6) After after the optimum temperature in the thermal process has been reached and during the holding time, as set forth in Rule .0185 of this Section, the reading of the indicating thermometer and the time of reading shall be recorded on the chart-chart; and

(7) Signature-signature of the thermal process operator.

(g) A constant flow steam control valve is required, if steam is used as a source of heat.

(h) The thermal processing unit shall be provided with effective and uniform temperature.

(i) Other technologies shall be approved by the Division if they are shown to that provide the equivalent data, information-information, and records as required in this Rule may be used if approved by the Division-Rule.

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

Eff. April 1, 1997;

Readopted Eff. April 1, 2022.

1 15A NCAC 18A .0185 is readopted with changes 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.~~ operation based upon documentation of the ability to produce time-temperature
6 results as required by the Rules of this Section.

7 (b) The thermal processing of crustacea or crustacea meat shall be conducted in compliance with the
8 ~~following:~~ following procedures:

- 9 (1) ~~The the~~ minimum thermal processing specifications shall be the ~~raising of the internal heating of~~
10 ~~previously cooked temperature of the container of~~ crustacea or crustacea meat to a desired
11 temperature ~~and for a specified time at the geometric center of a container.~~ container in equipment
12 being operated in compliance with the Process Validation Study Report. Each set of thermal
13 processing equipment shall be standardized so that the minimum procedure can be obtained. The
14 thermal process procedure shall be performed in accordance with the standardization report. This
15 process. A copy of the procedures for operating the thermal processing equipment shall also be
16 posted adjacent to the thermal processing unit. The thermal processor shall keep on file the
17 standardization report on file and shall provide the Division a copy of such report. report.
18 (2) ~~Alteration~~ alteration of the equipment or loading of containers shall require ~~the procedure be~~
19 ~~restandardized.~~ a new Process Validation Study Report. Report.
20 (3) ~~The the~~ containers of crustacea or crustacea meat shall be cooled to 50° F (10° C) or below within
21 three ~~hours.~~ hours of the completion of the thermal process. thermal process; and
22 (4) ~~Refrigerated~~ refrigerated storage shall be provided for the cooled crustacea or crustacea meat and
23 shall maintain a storage temperature at or below 36° F (2.2° C).

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

1 15A NCAC 18A .0186 is readopted with changes 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 legibly identify the contents of the container as thermally processed
7 crustacea or crustacea meat meat;
- 8 (2) ~~Each each~~ container shall be permanently and legibly identified with a code indicating the batch and
9 day of processing processing;
- 10 (3) ~~The the~~ words "Perishable-Keep Under Refrigeration" or equivalent shall be prominently legibly
11 displayed on the container container; and
- 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.*

1 15A NCAC 18A .0187 is readopted with changes 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~~ 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).~~ below; and
- 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.*

1 15A NCAC 18A .0191 is readopted with changes 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~~ the eight key sanitation items shall
5 be recorded, as specified in ~~plan,~~ the HACCP Plan, and signed and dated when recorded. The eight key sanitation
6 items are set forth in 21 CFR 123.11 "Sanitation Control Procedures", which is incorporated by reference including
7 any subsequent amendments and editions. A copy of the reference material can be found at
8 <https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-123/subpart-A/section-123.11>, at no cost. The
9 records shall be reviewed by the owner or designee within one week of recording.

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

12 *Eff. August 1, 2000.*

13 *Readopted Eff. April 1, 2022.*