



TEMPORARY RULE-MAKING
FINDINGS OF NEED
[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: N.C. MARINE FISHERIES COMMISSION			
2. Rule citation & name: 15A NCAC 03I .0123 COMMERCIAL HARVEST REPORTING REQUIREMENTS			
3. Action:	Adoption	Amendment	Repeal
4. Was this an Emergency Rule: Yes No		Effective date: N/A	
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: APRIL 19, 2024 b. Proposed Temporary Rule published on the OAH website: APRIL 23, 2024 c. Public Hearing date: MAY 1, 2024 d. Comment Period: APRIL 22-MAY 20, 2024 e. Notice pursuant to G.S. 150B-21.1(a3)(2): APRIL 22, 2024 f. Adoption by agency on: JUNE 6, 2024 g. Proposed effective date of temporary rule if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3: N/A			
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. A serious and unforeseen threat to the public health, safety or welfare. The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: S.L. 2023-137, s. 6 Effective date: OCTOBER 10, 2023 A recent change in federal or state budgetary policy. Effective date of change: A recent federal regulation. Cite: Effective date: A recent court order. Cite order: Other:			
Explain: Session Law 2023-137, Section 6, requires that any person who recreationally harvests red drum, flounder, spotted seatrout (speckled trout), striped bass, and weakfish (gray trout) from coastal fishing waters, joint fishing waters, and inland fishing waters adjacent to coastal or joint fishing waters must report that harvest to the N.C. Division of Marine Fisheries (DMF). Additionally, it requires anyone holding a commercial fishing license who is engaged in a commercial fishing operation to report all fish harvested to DMF, regardless of sale. The legislation directs the Marine Fisheries Commission (MFC) and the Wildlife Resources Commission (WRC) to adopt temporary rules to implement the requirements and to adopt permanent rules to replace the temporary rules; the temporary rules shall remain in effect until permanent rules that replace the temporary rules become effective. On February 23, 2024, the MFC requested a waiver from the Rules Review Commission (RRC) of G.S. 150B-21.1(a2), which requires a temporary rule based upon a legislative change be submitted to the RRC within 210 days of the enactment of the legislation. Session Law 2023-137, Section 6 became law on October 10, 2023, and the MFC would have been required to submit temporary rules no later than May 7, 2024. At its February 28, 2024 meeting, the RRC voted to grant the MFC's waiver request to submit temporary rules, and thereby waived the 210-day requirement for temporary rulemaking for an additional 60 days from May 7, 2024 until July 6, 2024.			

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Starting December 1, 2024, anglers will be required to report their harvest. The legislation enacted new requirements for the MFC and WRC to implement, first via temporary rules and then via permanent rules that will require a fiscal note pursuant to G.S. 150B-21.4(b)(1); the fiscal note cannot be completed by the time the requirements become effective on December 1, 2024. The MFC and WRC proposed temporary rules to implement the requirements by the December 1, 2024 deadline and will propose permanent rules to replace the temporary rules. This two-step process also provides an opportunity for the agencies to develop and implement a reporting process and platform, and an opportunity for anglers to use them. Then the agencies can take the information gained from the initial phase of implementation to fine tune the requirements for the proposed permanent rules.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

No

9. Rule-making Coordinator: JENNIFER EVERETT

Phone: 919-707-8595

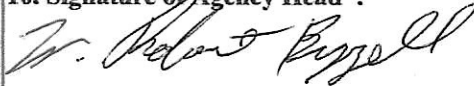
E-Mail:
JENNIFER.EVERETT@DEQ.NC.GOV

Agency contact, if any: CATHERINE BLUM

Phone: 252-515-5500

E-Mail: CATHERINE.BLUM@DEQ.NC.GOV

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: W. ROBERT BIZZELL

Title: MARINE FISHERIES COMMISSION CHAIR

E-Mail: R.BIZZELL.MFC@DEQ.NC.GOV

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

Date returned to agency:

1 15A NCAC 03I .0123 is adopted under temporary procedures with changes as follows:

2
3 **15A NCAC 03I .0123 COMMERCIAL HARVEST REPORTING REQUIREMENTS**

4 (a) Pursuant to G.S. 113-170.3 and for the purpose of this Rule, "harvest" shall mean the catching or taking of a fish
5 by any means, followed by a reduction of such fish to possession. Harvest shall be deemed complete:

6 (1) if a vessel is used, when fish reach the shore or a structure connected to the shore; or

7 (2) if a vessel is not used, at the moment a person is no longer engaged in fishing.

8 (b) Any person holding a commercial fishing license engaged in a commercial fishing operation who completes the
9 harvest of any fish in coastal or joint fishing waters shall report that harvest within 48 hours of harvest being complete,
10 as follows:

11 (1) for fish sold, harvest shall be reported in accordance with the reporting requirements in G.S. 113-
12 168.2 and recordkeeping requirements in Rule .0114 of this Section; and

13 (2) for fish harvested but not sold, harvest shall be reported in accordance with the reporting
14 requirements in G.S. 113-168.2 and in the same manner as provided in Rule .0114 of this Section
15 for a transaction.

16 (c) The requirements of this Rule shall be effective in accordance with the schedule in S.L. 2023-137, s. 6(f).

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18 *History Note: Authority G.S. 113-134; 113-170.3; 113-181; 113-182; 143B-289.52;*

19 *Temporary Adoption Eff. XXXXXX, 2024.*



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OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: N.C. MARINE FISHERIES COMMISSION			
2. Rule citation & name: 15A NCAC 03I .0124 NON-COMMERCIAL HARVEST REPORTING REQUIREMENTS			
3. Action:	Adoption	Amendment	Repeal
4. Was this an Emergency Rule: Yes No		Effective date: N/A	
5. Provide dates for the following actions as applicable: <ul style="list-style-type: none">a. Proposed Temporary Rule submitted to OAH: APRIL 19, 2024b. Proposed Temporary Rule published on the OAH website: APRIL 23, 2024c. Public Hearing date: MAY 1, 2024d. Comment Period: APRIL 22-MAY 20, 2024e. Notice pursuant to G.S. 150B-21.1(a3)(2): APRIL 22, 2024f. Adoption by agency on: JUNE 6, 2024g. Proposed effective date of temporary rule if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3: N/A			
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <p>A serious and unforeseen threat to the public health, safety or welfare. The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: S.L. 2023-137, s. 6 Effective date: OCTOBER 10, 2023</p> <p>A recent change in federal or state budgetary policy. Effective date of change:</p> <p>A recent federal regulation. Cite: Effective date:</p> <p>A recent court order. Cite order:</p> <p>Other:</p> <p>Explain: Session Law 2023-137, Section 6, requires that any person who recreationally harvests red drum, flounder, spotted seatrout (speckled trout), striped bass, and weakfish (gray trout) from coastal fishing waters, joint fishing waters, and inland fishing waters adjacent to coastal or joint fishing waters must report that harvest to the N.C. Division of Marine Fisheries (DMF). Additionally, it requires anyone holding a commercial fishing license who is engaged in a commercial fishing operation to report all fish harvested to DMF, regardless of sale. The legislation directs the Marine Fisheries Commission (MFC) and the Wildlife Resources Commission (WRC) to adopt temporary rules to implement the requirements and to adopt permanent rules to replace the temporary rules; the temporary rules shall remain in effect until permanent rules that replace the temporary rules become effective. On February 23, 2024, the MFC requested a waiver from the Rules Review Commission (RRC) of G.S. 150B-21.1(a2), which requires a temporary rule based upon a legislative change be submitted to the RRC within 210 days of the enactment of the legislation. Session Law 2023-137, Section 6 became law on October 10, 2023, and the MFC would have been required to submit temporary rules no later than May 7, 2024. At its February 28, 2024 meeting, the RRC voted to grant the MFC's waiver request to submit temporary rules, and thereby waived the 210-day requirement for temporary rulemaking for an additional 60 days from May 7, 2024 until July 6, 2024.</p>			

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Starting December 1, 2024, anglers will be required to report their harvest. The legislation enacted new requirements for the MFC and WRC to implement, first via temporary rules and then via permanent rules that will require a fiscal note pursuant to G.S. 150B-21.4(b)(1); the fiscal note cannot be completed by the time the requirements become effective on December 1, 2024. The MFC and WRC proposed temporary rules to implement the requirements by the December 1, 2024 deadline and will propose permanent rules to replace the temporary rules. This two-step process also provides an opportunity for the agencies to develop and implement a reporting process and platform, and an opportunity for anglers to use them. Then the agencies can take the information gained from the initial phase of implementation to fine tune the requirements for the proposed permanent rules.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

No

9. Rule-making Coordinator: JENNIFER EVERETT

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Agency contact, if any: CATHERINE BLUM

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10. Signature of Agency Head*:



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Typed Name: W. ROBERT BIZZELL

Title: MARINE FISHERIES COMMISSION CHAIR

E-Mail: R.BIZZELL.MFC@DEQ.NC.GOV

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

Date returned to agency:

1 15A NCAC 03I .0124 is adopted under temporary procedures with changes as follows:

2
3 **15A NCAC 03I .0124 NON-COMMERCIAL HARVEST REPORTING REQUIREMENTS**

4 (a) Pursuant to G.S. 113-170.3 and for the purpose of this Rule, "harvest" shall mean the catching or taking of a fish
5 by any means, followed by a reduction of such fish to possession. Harvest shall be deemed complete:

- 6 (1) if a vessel is used, when fish reach the shore or a structure connected to the shore; or
7 (2) if a vessel is not used, at the moment a person is no longer engaged in fishing.

8 (b) Any person, other than a person holding a commercial fishing license engaged in a commercial fishing operation,
9 who completes the harvest of a flounder, red drum, spotted seatrout, striped bass, or weakfish in coastal or joint fishing
10 waters shall report that harvest. Harvest shall be reported by either electronic reporting means required by the Division
11 of Marine Fisheries online at <https://www.ncmarinefisheries.net>, or a Division-issued report card. Electronic reports
12 shall be submitted at the time harvest is complete. Division-issued report cards shall be completed at the time harvest
13 is complete and submitted electronically to the Division by midnight the day after harvest is complete, except when
14 the day after harvest is complete is a Sunday or a federal holiday, electronic submission of a report card is due no later
15 than midnight on the first day that is not a Sunday or a federal holiday. Harvest data to be reported shall include:

- 16 (1) person's valid N.C. fishing license number, or if a person does not have a valid N.C. fishing license
17 number, person's first name, last name, and zip code of residence;
18 (2) date of harvest;
19 (3) species identification;
20 (4) number of each species;
21 (5) species length, if applicable;
22 (6) area of harvest; and
23 (7) type of gear used.

24 (c) The requirements of this Rule shall be effective in accordance with the schedule in S.L. 2023-137, s. 6(f).

25
26 *History Note: Authority G.S. 113-134; 113-170.3; 113-181; 113-182; 143B-289.52;*
27 *Temporary Adoption Eff. XXXXXX, 2024.*