

## Burgos, Alexander N

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**Subject:** FW: WRC Temp Rule-15A NCAC 10C .0218

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**From:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Sent:** Monday, June 24, 2024 9:51 AM  
**To:** Ruhlman, Carrie A <carrie.ruhlman@ncwildlife.org>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: WRC Temp Rule-15A NCAC 10C .0218

Carrie,

I intend to recommend that the RRC approve this Rule. Please submit the final revised rule via email to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov) no later than 5pm today. The electronic copy must be saved as the official rule name (XX NCAC XXXX). Please include me on the email.

Thanks,

Travis C. Wiggs  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1929  
Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

## Burgos, Alexander N

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**Subject:** FW: WRC Temp Rule-15A NCAC 10C .0218  
**Attachments:** 15A NCAC 10C .0218 - Tech(2).docx

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**From:** Ruhlman, Carrie A <carrie.ruhlman@ncwildlife.org>  
**Sent:** Friday, June 21, 2024 4:28 PM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: WRC Temp Rule-15A NCAC 10C .0218

Travis,

Please see attached for revisions. Our responses to your comments are below in black. We have consulted with DMF on the changes and theirs should be similar. Please let me know if you have any other questions or concerns.



**Carrie Ruhlman // Policy Manager**  
**Office of Conservation Policy & Analysis**  
Office: 919-707-0011 / Mobile: 919-606-2241

1 15A NCAC 10C .0218 is adopted under temporary procedures with changes as follows:

2  
3 **15A NCAC 10C .0218 HARVEST REPORTING REQUIREMENTS**

4 (a) For the purpose of this Rule, the following definitions shall apply:

5 (1) "Division" means the ~~[N.C.]~~ **North Carolina** Division of Marine Fisheries.

6 (2) "inland fishing waters adjacent to joint or coastal fishing waters" means inland fishing  
7 waters upstream of joint or coastal fishing waters of the Roanoke, Tar, Neuse, and Cape  
8 Fear rivers and their tributaries extending upstream to the first impoundment of the main  
9 course on the river or its tributaries, and in all other inland fishing waters east of Interstate  
10 95 except in the Lumber River and its tributaries.

11 (3) "harvest" means catching **or taking** a fish and reducing it to permanent **[possession]**  
12 **possession by not returning it to the water.**

13 (b) An individual who harvests the following ~~[species]~~ **species**, from joint fishing waters or inland fishing  
14 waters adjacent to joint or coastal fishing ~~[waters]~~ **waters**, shall report the information required in Paragraph  
15 (b) of Rule 15A NCAC 03I .0124 to the Division at <https://www.ncmarinefisheries.net> or record the harvest  
16 on a Division-issued report card when harvest is complete:

17 (1) flounder;

18 (2) red drum;

19 (3) spotted seatrout;

20 (4) striped bass; and

21 (5) weakfish.

22 (c) Individuals using a Division-issued report card shall report the information electronically at  
23 ~~[<https://www.deq.nc.gov/about/divisions/marine-fisheries>]~~ **<https://www.ncmarinefisheries.net>** ~~[by~~  
24 **midnight the day after harvest is complete.]** **in a manner consistent with requirements of Rule 15A NCAC**  
25 **03I .0124(b).**

26 (d) An individual shall not remove the head or tail or otherwise change the appearance of the fish to render  
27 it impractical to identify, count, or measure while fishing or afield and until harvest has been recorded or  
28 reported.

29 (e) **The requirements of this Rule shall be effective in accordance with the schedule in S.L. 2023-137, s.**  
30 **6(f).**

31  
32 *History Note: Authority G.S. 113-134; 113-170.3;*

33 *Temporary Adoption Eff. July 1, 2024.*

34

## Burgos, Alexander N

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**Subject:** FW: WRC Temp Rule-15A NCAC 10C .0218

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**From:** Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>  
**Sent:** Friday, June 21, 2024 12:21 PM  
**To:** Ruhlman, Carrie A <[carrie.ruhlman@ncwildlife.org](mailto:carrie.ruhlman@ncwildlife.org)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: WRC Temp Rule-15A NCAC 10C .0218

Carrie,

Please see my responses below in blue. I've discussed these issues with my colleagues. I intend to object to the Rule under 150B-21.9(2) and issue a staff opinion if we're unable to agree.

Please reply at your earliest convenience. Thanks,

Travis C. Wiggs  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1929  
Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

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**From:** Ruhlman, Carrie A <[carrie.ruhlman@ncwildlife.org](mailto:carrie.ruhlman@ncwildlife.org)>  
**Sent:** Thursday, June 20, 2024 3:42 PM  
**To:** Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: WRC Temp Rule-15A NCAC 10C .0218

Travis,

Please see answers below in red. Let me know if you have additional questions.



**Carrie Ruhlman // Policy Manager**  
**Office of Conservation Policy & Analysis**  
Office: 919-707-0011 / Mobile: 919-606-2241

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**From:** Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>  
**Sent:** Thursday, June 20, 2024 1:15 PM  
**To:** Ruhlman, Carrie A <[carrie.ruhlman@ncwildlife.org](mailto:carrie.ruhlman@ncwildlife.org)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: WRC Temp Rule-15A NCAC 10C .0218

Carrie,

Please see my comments-questions below:

In (a)(3), your agency's use of the word "permanent" is unclear to me. How can fish be permanently possessed? A fish is permanently possessed when the angler decides not to throw it back. Just because you catch a fish and throw it in your live well doesn't mean you're going to take it home with you, but it is possessed. You may continue fishing and end up catching a bigger fish. At that point, you may decide to throw the first fish back and keep the bigger one. Alternatively, you may not catch any other fish that day and decide when you start packing up for the day, that you don't want to go through the trouble of cleaning one fish and throw the fish back at that point. So, our definition of harvest accounts for those situations. Permanent possession is when you decide that you're done fishing and are keeping the fish.

I understand your explanation and the purpose behind using "permanent". I think your agency needs to define "permanent possession" in the Rule, as you've done here (when an individual stops fishing and decides to keep the fish). I suggest your agency insert "or taking" after "catching" to make your definition of "harvest" consistent with Marine Fisheries. I asked Marine Fisheries who will have "possession" of the fish once they're reduced since a vessel may include a captain, first mate, deckhands, or anglers that may all be involved in catching fish. I suggest using "permanent personal possession" in the definition of "harvest" or specify who will have possession when defining "permanent possession" in the Rule (e.g. "when an angler stops fishing and decides to keep the fish"). Who reduces the fish to permanent possession is important to determine for compliance with 15A NCAC 03I .0124(b).

In (c) lines 22-23, the language, "by midnight the day after harvest is complete", does not consider the exception Marine Fisheries is proposing in 15A NCAC 03I .0124(b), lines 13-15. It seems you will need to add the exception language to your Rule or cite the Marine Fisheries Rule for clarity. We do not think the exception cited in the Marine Fisheries Rule is necessary, as any electronic reporting method developed will work any day of the week and anglers are likely to plan if the expectation is clear.

I understand why your agency thinks the exception is unnecessary for electron reporting. However, uniformity in these Rules is important for clarity to the regulated public, especially when multiple agencies have concurrent jurisdiction. G.S. 113-170.3(d) says harvests shall be reported "in a manner consistent with rules adopted by the Marine Fisheries Commission and the Wildlife Resources Commission." It seems the S.L. directed the agencies to promulgate rules consistently in this circumstance.

Please reply at your earliest convenience.

Thanks,

Travis C. Wiggs  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1929  
Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

## Burgos, Alexander N

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**Subject:** FW: WRC Temp Rule-15A NCAC 10C .0218

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**Sent:** Thursday, June 20, 2024 3:42 PM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: WRC Temp Rule-15A NCAC 10C .0218

Travis,

Please see answers below in red. Let me know if you have additional questions.



**Carrie Ruhlman // Policy Manager**  
**Office of Conservation Policy & Analysis**  
Office: 919-707-0011 / Mobile: 919-606-2241

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**Subject:** RE: WRC Temp Rule-15A NCAC 10C .0218

Carrie,

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In (a)(3), your agency's use of the word "permanent" is unclear to me. How can fish be permanently possessed? A fish is permanently possessed when the angler decides not to throw it back. Just because you catch a fish and throw it in your live well doesn't mean you're going to take it home with you, but it is possessed. You may continue fishing and end up catching a bigger fish. At that point, you may decide to throw the first fish back and keep the bigger one. Alternatively, you may not catch any other fish that day and decide when you start packing up for the day, that you don't want to go through the trouble of cleaning one fish and throw the fish back at that point. So, our definition of harvest accounts for those situations. Permanent possession is when you decide that you're done fishing and are keeping the fish.

In (c) lines 22-23, the language, "by midnight the day after harvest is complete", does not consider the exception Marine Fisheries is proposing in 15A NCAC 03I .0124(b), lines 13-15. It seems you will need to add the exception language to your Rule or cite the Marine Fisheries Rule for clarity. We do not think the exception cited in the Marine Fisheries Rule is necessary, as any electronic reporting method developed will work any day of the week and anglers are likely to plan if the expectation is clear.

Please reply at your earliest convenience.

Thanks,

Travis C. Wiggs  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1929  
Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

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**From:** Ruhlman, Carrie A <[carrie.ruhlman@ncwildlife.org](mailto:carrie.ruhlman@ncwildlife.org)>  
**Sent:** Wednesday, June 19, 2024 1:59 PM  
**To:** Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: WRC Temp Rule-15A NCAC 10C .0218

Hi Travis,

Attached are our responses and the revised rule. Please let me know if you have any questions or concerns.



**Carrie Ruhlman // Policy Manager**  
**Office of Conservation Policy & Analysis**  
Office: 919-707-0011 / Mobile: 919-606-2241

## **Burgos, Alexander N**

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**Subject:** FW: WRC Temp Rule-15A NCAC 10C .0218

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**Sent:** Thursday, June 20, 2024 1:15 PM  
**To:** Ruhlman, Carrie A <carrie.ruhlman@ncwildlife.org>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: WRC Temp Rule-15A NCAC 10C .0218

Carrie,

Please see my comments-questions below:

In (a)(3), your agency's use of the word "permanent" is unclear to me. How can fish be permanently possessed?

In (c) lines 22-23, the language, "by midnight the day after harvest is complete", does not consider the exception Marine Fisheries is proposing in 15A NCAC 03I .0124(b), lines 13-15. It seems you will need to add the exception language to your Rule or cite the Marine Fisheries Rule for clarity.

Please reply at your earliest convenience.

Thanks,

Travis C. Wiggs  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1929  
Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)



## Burgos, Alexander N

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**Subject:** FW: WRC Temp Rule-15A NCAC 10C .0218

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**From:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Sent:** Wednesday, June 19, 2024 2:30 PM  
**To:** Ruhlman, Carrie A <carrie.ruhlman@ncwildlife.org>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: WRC Temp Rule-15A NCAC 10C .0218

Received. I'll be in touch. Thanks, Carrie

Travis C. Wiggs  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1929  
Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

## Burgos, Alexander N

---

**Subject:** FW: WRC Temp Rule-15A NCAC 10C .0218  
**Attachments:** 6\_2024\_WRC Temp Rule Request for Changes.docx; 15A NCAC 10C .0218 - Tech.docx

---

**From:** Ruhlman, Carrie A <carrie.ruhlman@ncwildlife.org>  
**Sent:** Wednesday, June 19, 2024 1:59 PM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: WRC Temp Rule-15A NCAC 10C .0218

Hi Travis,

Attached are our responses and the revised rule. Please let me know if you have any questions or concerns.



**Carrie Ruhlman // Policy Manager**  
**Office of Conservation Policy & Analysis**  
Office: 919-707-0011 / Mobile: 919-606-2241

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

AGENCY: North Carolina Wildlife Resources Commission

RULE CITATION: 15A NCAC 10C .0218 (Temporary)

**DEADLINE FOR RECEIPT: June 20, 2024**

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

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

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

*In (a)(1) line 5, please spell out "N.C.". **Done.***

*In (3), your agency's definition of "harvest" is different than the definition adopted by Marine Fisheries in 15A NCAC 03I .0123. Is it important for both agencies to have the exact same definition in this situation? **Staff from both agencies have attempted to reconcile definitions. We believe our definition allows for Wildlife Officer discretion, flexibility for anglers, and will accomplish desired compliance.***

*In (b), please add a comma after "species" (line 12) and after "waters" (line 13). **Done.***

*In (c) lines 22-23, replace "by midnight the day after harvest is complete" with "in accordance with 15A NCAC 03I .0124(b)." **We decided against referencing 03I .0124(b) because of the complexity of that paragraph. Our language is an attempt to make this rule enforceable and simple for the public.***

*In (e), your agency and Marine Fisheries should consider both using "are effective" or "shall be effective" in these rules for consistency. **Ok.***

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

1 15A NCAC 10C .0218 is adopted under temporary procedures with changes as follows:

2  
3 **15A NCAC 10C .0218 HARVEST REPORTING REQUIREMENTS**

4 (a) For the purpose of this Rule, the following definitions shall apply:

5 (1) "Division" means the ~~[N.C.]~~ North Carolina Division of Marine Fisheries.

6 (2) "inland fishing waters adjacent to joint or coastal fishing waters" means inland fishing  
7 waters upstream of joint or coastal fishing waters of the Roanoke, Tar, Neuse, and Cape  
8 Fear rivers and their tributaries extending upstream to the first impoundment of the main  
9 course on the river or its tributaries, and in all other inland fishing waters east of Interstate  
10 95 except in the Lumber River and its tributaries.

11 (3) "harvest" means catching a fish and reducing it to permanent possession.

12 (b) An individual who harvests the following ~~[species]~~ species, from joint fishing waters or inland fishing  
13 waters adjacent to joint or coastal fishing ~~[waters]~~ waters, shall report the information required in Paragraph  
14 (b) of Rule 15A NCAC 03I .0124 to the Division at <https://www.ncmarinefisheries.net> or record the harvest  
15 on a Division-issued report card when harvest is complete:

16 (1) flounder;

17 (2) red drum;

18 (3) spotted seatrout;

19 (4) striped bass; and

20 (5) weakfish.

21 (c) Individuals using a Division-issued report card shall report the information electronically at  
22 ~~[<https://www.deq.nc.gov/about/divisions/marine-fisheries>]~~ <https://www.ncmarinefisheries.net> by midnight  
23 the day after harvest is complete.

24 (d) An individual shall not remove the head or tail or otherwise change the appearance of the fish to render  
25 it impractical to identify, count, or measure while fishing or afield and until harvest has been recorded or  
26 reported.

27 (e) The requirements of this Rule shall be effective in accordance with the schedule in S.L. 2023-137, s.  
28 6(f).

29  
30 History Note: Authority G.S. 113-134; 113-170.3;

31 Temporary Adoption Eff. July 1, 2024.

32

## Burgos, Alexander N

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**From:** Wiggs, Travis C  
**Sent:** Friday, June 14, 2024 2:43 PM  
**To:** Ruhlman, Carrie A  
**Cc:** Burgos, Alexander N  
**Subject:** WRC Temp Rule-15A NCAC 10C .0218  
**Attachments:** 6\_2024\_WRC Temp Rule Request for Changes .docx

Good afternoon,

I'm the attorney who reviewed the Temporary Rule submitted by the North Carolina Wildlife Resources Commission for the June 2024 RRC meeting. The RRC will formally review this Rule at its meeting on Wednesday, June 26, 2024, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an invite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, please let me know prior to the meeting, and we will get invites out to them as well.

Attached is the Request for Changes Pursuant to G.S. 150B-21.10. Please submit the revised Rules and forms to me via email, no later than 5 p.m. on June 20, 2024.

Thank you.

Travis C. Wiggs  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1929  
Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

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Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.