



Prohibiting Repacking of Foreign Crab Meat in North Carolina

Presented to: Marine Fisheries Commission
DEPARTMENT OF ENVIRONMENTAL QUALITY

Marine Fisheries

Shannon Jenkins and Shawn Nelson | November 19-20, 2020



Crab Picking in North Carolina

- Facilities in NC are permitted according to MFC Rules 18A .0100-.0191 (Handling, Packing, and Shipping of Crustacea Meat)
- 14 certifications in NC to either pick or repack crab meat
- Fresh crab meat
- Pasteurized crab meat



Picked Blue Crab Meat, retrieved from <http://localsseafood.com/nc-seafood-guide/picked-blue-crab-meat/>.

Repacking

- Transferring crab meat from the original packed container into another container using sanitary techniques
- Processors who repack usually do so in order to market the product in their own branded containers
- Domestic sourced crab meat
- Foreign sourced crab meat (any place or location outside the United States)

Repacking of Foreign Crab Meat

- Sources include Asia and South America with countries such as Indonesia, Vietnam, China, Mexico, Brazil, and Venezuela
- Imports include the meat from two types of “swimming crabs” that are related to blue crab: *Portunidae* (family that includes blue crabs) and *Callinectes* (blue crab genus)
- Processors who repack meat from foreign sources typically receive pasteurized product in cans and then repack the product directly into their own branded plastic containers

Marine Fisheries Commission (MFC) Business Meeting May 14, 2020

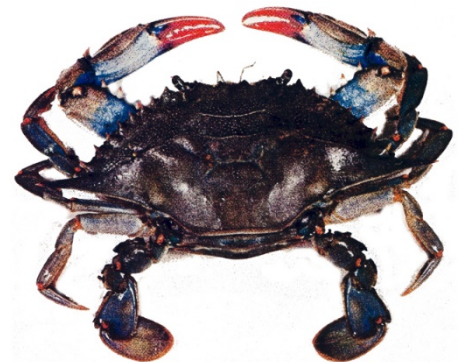
- The MFC reviewed a presentation of an information paper titled “*Information on Repacking of Foreign Crab Meat in North Carolina.*”
 - Negative publicity of fraudulent representation of foreign crab meat as “Product of USA”
 - Potential confusion of consumers despite “country of origin” labeling requirements
 - Economic impact on some NC crab processors and grocery stores and retail outlets that market that type of product if the practice were prohibited
- The MFC directed Division of Marine Fisheries staff to initiate rulemaking “to make it illegal to repack any imported crab meat in North Carolina into another container for resale in the State of North Carolina.”



Product of USA, retrieved from:
<https://www.dailypress.com/news/newport-news/dp-ews-caseys-seafood-sentencing-20180911-story.html>

Issue Paper

- “*Prohibiting Repacking of Foreign Crab Meat in North Carolina*” Issue Paper is included the briefing materials.
- MFC motion stated “to make it illegal to repack any imported crab meat in North Carolina into another container for resale in the State of North Carolina through the rulemaking process.”
 - The laws granting authority to the MFC were reviewed.
 - The MFC has authority to promulgate rules that would prohibit the repacking of foreign crab meat by DMF permitted facilities.
 - The MFC does not have the authority to prohibit the sale of repacked foreign crab meat.



Options for Consideration

- **Option 1 (Status Quo):** Continue to allow the repacking of foreign crab meat by N.C. crab processors.
 - While this option would not resolve the issues expressed by the MFC it is offered as an option since the MFC's authority is not consistent with the MFC motion in its entirety as passed.
 - MFC Rules 15A NCAC 18A .0136 and .0173 currently reference foreign crab meat.
 - No substantive changes for these existing rules, just conforming updates for grammar, punctuation, and capitalization.



Blue Crab Meat Lump, retrieved from:
<https://www.usaseafoodco.com/crab-meat-crabmeat/frozen-blue-crab-meat-lump-en.html>

Options for Consideration

- **Option 2:** Proposed rule prohibits the repacking of foreign crab meat in North Carolina into another container.

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

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

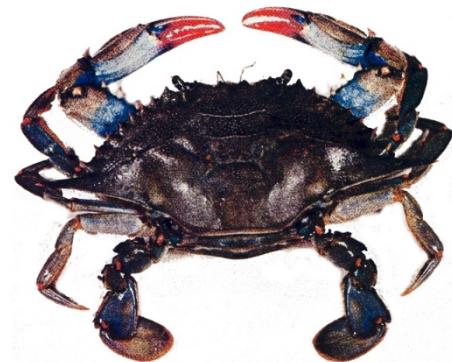
*History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;
Eff. April 1, 2022.*



Options for Consideration

- **Option 2:**

- Would not expressly prohibit the sale as stated in the MFC motion due to the lack of authority, but would effectively accomplish the same result by prohibiting the repacking of foreign crab meat within North Carolina and thus these products would not be available for sale.
- Specifies that the rule applies to those crab processing facilities permitted by DMF in accordance with MFC Rule 15A NCAC 18A .0135 (Permits).
- Clarifies that the prohibition of repacking of foreign crab meat does not apply to crab meat that has been transformed into another product such as crab cakes or other value-added products.



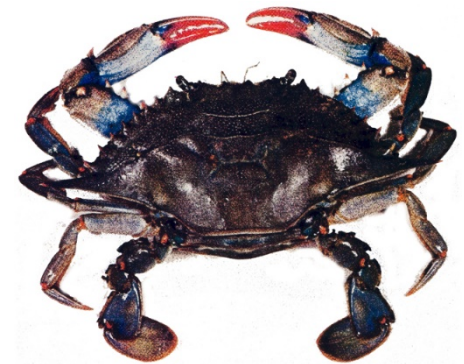
Options for Consideration

- **Option 2:** Also amends existing rules 18A .0136 and .0173 that reference foreign crab meat to ensure they are consistent with new proposed rule.

15A NCAC 18A .0136 APPLICABILITY OF RULES

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

*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.*



15A NCAC 18A .0173 REPACKING

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

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

(c) Repacking of crustacea meat:

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

(d) Labeling of repacked crustacea meat:

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

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

*History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~
Eff. October 1, 1992;
Amended Eff. August 1, 2002; April 1, 1997;
Readopted Eff. April 1, 2022.*

Summary of Options

1. Status quo: continue to allow the repacking of foreign crab meat by N.C. crab processors.
 - + Avoids any economic impact on some N.C. crab processors and a number of grocery stores and retail outlets that market that type of product.
 - + / – Does not resolve any economic advantage of N.C. repacked foreign crab meat over domestic crab meat.
 - Does not comply with MFC motion.
 - Does not resolve the potential for confusion by N.C. consumers regarding whether retail crab meat is domestic or foreign.

2. Adopt MFC Rule 15A NCAC 03L .0210 that would prohibit the repacking of foreign crab meat. Also, amend references to foreign crab meat in MFC Rules 15A NCAC 18A .0136 and .0173 accordingly.
 - + Achieves the goal of the MFC motion.
 - + Reduces the potential for confusion by N.C. consumers regarding whether retail crab meat is domestic or foreign.
 - + / – Alleviates any economic advantage of N.C. repacked foreign crab meat over domestic crab meat.
 - Has a negative economic impact for those N.C. crab processors that participate in the repacking of foreign crab meat and any grocery stores or retail outlets that market that type of product.

Next Step

MFC vote on preferred management option and associated proposed language for rulemaking



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