

NORTH CAROLINA MARINE FISHERIES COMMISSION

APRIL 2024

Special Called Meeting Briefing Materials



April 18, 2024

Meeting via Webex

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Marine Fisheries Commission Special Meeting AGENDA

Virtual Meeting via Webex
April 18, 2024

N.C.G.S. 138A-15(e) mandates at the beginning of any meeting of a board, the chair shall remind all members of their duty to avoid conflicts of interest under Chapter 138. The chair also shall inquire as to whether there is any known conflict of interest with respect to any matters coming before the board at that time.

N.C.G.S. 143B-289.54.(g)(2) states a member of the Marine Fisheries Commission shall not vote on any issue before the Commission that would have a "significant and predictable effect" on the member's financial interest. For purposes of this subdivision, "significant and predictable effect" means there is or may be a close causal link between the decision of the Commission and an expected disproportionate financial benefit to the member that is shared only by a minority of persons within the same industry sector or gear group. A member of the Commission shall also abstain from voting on any petition submitted by an advocacy group of which the member is an officer or sits as a member of the advocacy group's board of directors. A member of the Commission shall not use the member's official position as a member of the Commission to secure any special privilege or exemption of substantial value for any person. No member of the Commission shall, by the member's conduct, create an appearance that any person could improperly influence the member in the performance of the member's official duties.

Commissioners having questions about a conflict of interest or appearance of conflict should consult with counsel to the Marine Fisheries Commission or the secretary's ethics liaison. Upon discovering a conflict, the commissioner should inform the chair of the commission in accordance with N.C.G.S. 138A-15(e).

Thursday, April 18

11:00 a.m. Preliminary Matters

- Commission Call to Order* – Rob Bizzell, Chairman
- Conflict of Interest Reminder
- Roll Call
- **Approval of Agenda ****

11:15 a.m. Session Law 2023-137, Section 6 –*Phased-in Mandatory Commercial and Recreational Reporting of Certain Fish Harvests*

- **Vote to Approve Publication of temporary rule 15A NCAC 03I .0123 COMMERCIAL HARVEST REPORTING REQUIREMENTS with a public comment period and public hearing ****
- **Vote to Approve Publication of temporary rule 15A NCAC 03I .0124 NON-COMMERCIAL HARVEST REPORTING REQUIREMENTS with a public comment period and public hearing****

11:45 a.m. Adjourn

*** Times indicated are merely for guidance. The commission will proceed through the agenda until completed.**

****Probable Action Items**

N.C. Marine Fisheries Commission
 N.C. Wildlife Resources Commission
 2024 Temporary Rulemaking Timeline
 Mandatory Harvest Reporting

April 11, 2024

Time of Year	Action
April 18, 2024, 9 a.m.	WRC votes to notice temporary rule on the Office of Administrative Hearings website, with a public comment period and public hearing
April 18, 2024, 11 a.m.	MFC votes to notice temporary rules on the Office of Administrative Hearings website, with a public comment period and public hearing
April 22-May 20, 2024	Public comment period held
May 1, 2024	Combined virtual public hearing held
June 6, 2024	WRC votes on final approval of temporary rule
June 6, 2024	MFC votes on final approval of temporary rules
June 26, 2024	Rules Review Commission reviews temporary rules
December 1, 2024	Requirements of Session Law 2023-137, Section 6 begin

PROPOSED TEMPORARY RULE FOR
N.C. MARINE FISHERIES COMMISSION APRIL 18, 2024 SPECIAL CALLED MEETING

(APRIL 10, 2024)

1 15A NCAC 03I .0123 is proposed for adoption under temporary procedures 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

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

18 *Temporary Adoption Eff. XXXXXX, 2024.*

PROPOSED TEMPORARY RULE FOR
N.C. MARINE FISHERIES COMMISSION APRIL 18, 2024 SPECIAL CALLED MEETING

(APRIL 10, 2024)

1 15A NCAC 03I .0124 is proposed for adoption under temporary procedures 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

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

26 Temporary Adoption Eff. XXXXXX, 2024.

EXHIBIT Q

April 18, 2024



**Proposed Temporary Harvest Reporting Requirements Rule
15A NCAC 10C .0218
Recommended by Agency Staff for Public Notice, Comment, and
Presentation at Public Hearing**

The North Carolina General Assembly passed Session Law 2023-137 in the fall of 2023, Section 6 of this legislation requires any person who recreationally harvests the following species to report the harvest to the Division of Marine Fisheries:

- Flounder;
- Red Drum;
- Spotted Seatrout;
- Striped Bass; and
- Weakfish.

The N.C Wildlife Resources Commission must implement rules requiring reporting of harvest of these species from inland and joint fishing waters.

15A NCAC 10C .0218 HARVEST REPORTING REQUIREMENTS

1 15A NCAC 10C .0218 is proposed for adoption under temporary procedures 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. Division of Marine Fisheries.

6 (2) “inland fishing waters adjacent to joint or coastal fishing waters” means inland fishing waters
7 upstream of joint or coastal fishing waters of the Roanoke, Tar, Neuse, and Cape Fear rivers and
8 their tributaries extending upstream to the first impoundment of the main course on the river or its
9 tributaries, and in all other inland fishing waters east of Interstate 95 except in the Lumber River
10 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 from joint fishing waters or inland fishing waters adjacent to
13 joint or coastal fishing waters shall report the information required in Paragraph (b) of Rule 15A NCAC 03I .0124 to
14 the Division at <https://www.ncmarinefisheries.net> or record the harvest on a Division-issued report card when harvest
15 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> by midnight the day after harvest is complete.

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

25
26 History Note: Authority G.S. 113-134; 113-170.3;
27

pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 4.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

MODIFY CERTAIN RULES RELATED TO DEVELOPMENT DENSITY IN WATER SUPPLY WATERSHEDS, AS APPLICABLE IN IREDELL COUNTY AND THE TOWN OF MOORESVILLE

SECTION 5.(a) Definitions. – For purposes of this section and its implementation, "Water Supply Watershed Project Density Rule" means 15A NCAC 02B .0624 (Water Supply Watershed Protection Program: Nonpoint Source and Stormwater Pollution Control).

SECTION 5.(b) Water Supply Watershed Project Density Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Water Supply Watershed Project Density Rule as provided in subsection (c) of this section.

SECTION 5.(c) Implementation. – Notwithstanding 15A NCAC 02B .0624(7), Iredell County and the Town of Mooresville may regulate new development outside of WS-I watersheds and the critical areas of WS-II, WS-III, and WS-IV watersheds in accordance with the following requirement: a maximum of twenty percent (20%) of the land area of a water supply watershed outside of the critical area and within the local government's planning jurisdiction may be developed with new development projects and expansions of existing development of up to seventy percent (70%) built-upon area.

SECTION 5.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Water Supply Watershed Project Density Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 5.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

PHASED-IN MANDATORY COMMERCIAL AND RECREATIONAL REPORTING OF CERTAIN FISH HARVESTS

SECTION 6.(a) G.S. 113-170.3 reads as rewritten:

"§ 113-170.3. Record-keeping requirements; requirements; mandatory reporting for certain fisheries.

...

(d) Any person who recreationally harvests a fish listed in this subsection from coastal fishing waters, joint fishing waters, and inland fishing waters adjacent to coastal or joint fishing waters shall report that harvest to the Division of Marine Fisheries within the Department of Environment Quality in a manner consistent with rules adopted by the Marine Fisheries Commission and the Wildlife Resources Commission. The harvest of the following finfish species shall be reported:

- (1) Red Drum.
- (2) Flounder.

- (3) Spotted Seatrout.
- (4) Striped Bass.
- (5) Weakfish.

(e) Any person holding a commercial fishing license engaged in a commercial fishing operation who harvests any fish in coastal or joint fishing waters, regardless of sale, shall report that harvest to the Division of Marine Fisheries within the Department of Environmental Quality in a manner consistent with rules adopted by the Marine Fisheries Commission.

(f) Violation of subsection (d) or (e) of this section shall only be punishable by a verbal warning."

SECTION 6.(b) G.S. 113-170.3(f), as enacted by subsection (a) of this section, reads as rewritten:

"(f) Violation of subsection (d) or (e) of this section shall only be punishable by a verbal warning-issuance of a warning ticket pursuant to G.S. 113-140. Notwithstanding G.S. 113-140(c), an inspector or protector may issue additional warning tickets for repeat violations of subsection (d) or (e) of this section."

SECTION 6.(c) G.S. 113-170.3(f), as enacted by subsection (a) of this section and amended by subsection (b) of this act, reads as rewritten:

"(f) Violation of subsection (d) or (e) of this section shall only be punishable by issuance of a warning ticket pursuant to G.S. 113-140. Notwithstanding G.S. 113-140(e), a marine fisheries inspector may issue additional warning tickets for repeat violations of subsection (d) or (e) of this section-be an infraction as provided in G.S. 14-3.1, punishable by a fine of thirty-five dollars (\$35.00). A person responsible for an infraction under this subsection shall not be assessed court costs, but the Fisheries Director of the North Carolina Division of Marine Fisheries is authorized to suspend, revoke, or refuse to issue a commercial or recreational fishing license for any individual guilty of an infraction for violations of subsection (d) or (e) of this section pursuant to G.S. 113-171. The Executive Director of the Wildlife Resources Commission is authorized to revoke or refuse to issue a recreational fishing license issued by the Wildlife Resources Commission for any individual guilty of an infraction for violations of subsection (d) or (e) of this section for two consecutive years or upon failure to pay outstanding infraction fines when required to do so."

SECTION 6.(d) The Marine Fisheries Commission and the Wildlife Resources Commission shall adopt temporary rules to implement this section and shall adopt permanent rules to replace the temporary rules. Temporary rules adopted in accordance with this section shall remain in effect until permanent rules that replace the temporary rules become effective.

SECTION 6.(e) The Department of Environmental Quality and the Wildlife Resources Commission shall report on the implementation and response to the fishery reporting requirements imposed by subsection (a) of this section, including potential incentives to encourage reporting, to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than May 1 of each year.

SECTION 6.(f) Subsection (a) of this section becomes effective December 1, 2024, and applies to violations committed on or after that date. Subsection (b) of this section becomes effective December 1, 2025, and applies to violations committed on or after that date. Subsection (c) of this section becomes effective December 1, 2026, and applies to violations committed on or after that date. The remainder of this section is effective when it becomes law.