



# *Additional Labeling Requirements for Repacked Foreign Crab Meat in North Carolina*

Presented to: Marine Fisheries Commission  
*DEPARTMENT OF ENVIRONMENTAL QUALITY*

Marine Fisheries

Shannon Jenkins and Shawn Nelson | November 18-19, 2021



# Crab Picking in North Carolina

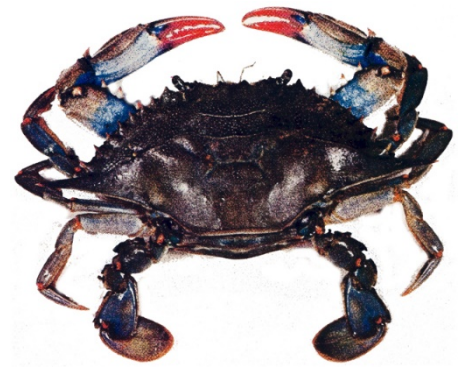
- Facilities in NC are permitted according to MFC Rules 18A .0100-.0191 (Handling, Packing, and Shipping of Crustacea Meat)
- 11 facilities in NC certified to either pick or repack crab meat
- Fresh crab meat
- Pasteurized crab meat



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

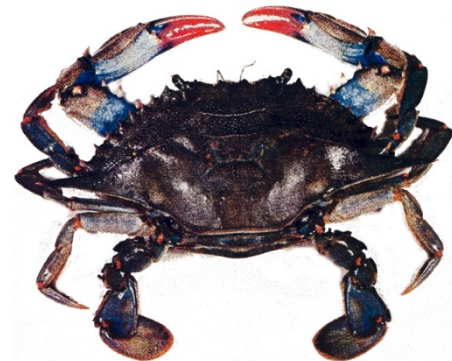
# *Repacking*

- 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



# *Repacking of Foreign Crab Meat*

- Sources include Asia and South America with countries such as Indonesia, Vietnam, Thailand, 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 fraud affects the reputation of the N.C. crab meat industry and decreases consumer confidence in authentic “Product of USA” crab meat.
  - Possible deception of consumers despite “country of origin” labeling requirements
- 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-nws-caseys-seafood-sentencing-20180911-story.html>

# Marine Fisheries Commission (MFC) Business Meeting May 20, 2021

- MFC voted to approve Notice of Text for proposed MFC Rule 03L .0210:

## **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. (Pending legislative review pursuant to S.L. 2019-198).*

- MFC scheduled to vote on final approval to adopt rule 03L .0210 at today's meeting



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

# Marine Fisheries Commission (MFC) Business Meeting May 20, 2021

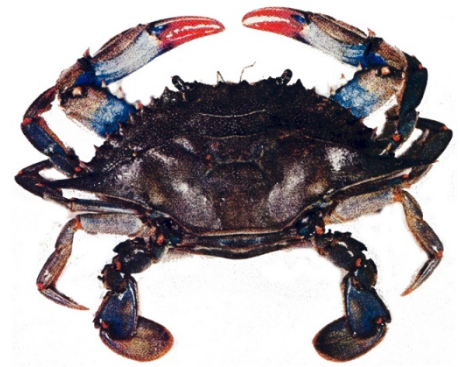
- The MFC also discussed the possibility of a “loophole” to proposed MFC Rule 03L .0210:
  - Would still allow NC crab processors to engage out of state processors to repack foreign crab meat into their branded container and sell in NC
  - Small text, stamped on text, or a check off box for the required country of origin label could be used to make it difficult for consumers to determine the origin of the product
- The MFC approved a motion that *“the DMF develop rules so that any repacked crab meat container used for sale in the State of North Carolina that does not contain 100% domestic crab meat have an 18 type bold permanent print or larger statement of the country of origin clearly on the lid and two sides of the cup, and that a checkoff panel or stamped country of origin not be allowed.”*



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

# *Issue Paper*

- “*Additional Labeling Requirements for Repacked Foreign Crab Meat*” Issue Paper is included the briefing materials.
- Proposed MFC Rule 15A NCAC 03L .0211 would require additional labeling requirements for containers of repacked foreign crab meat to be sold in North Carolina.





# *Proposed MFC Rule 15A NCAC 03L .0211*

## **15A NCAC 03L .0211    ADDITIONAL LABELING REQUIREMENTS FOR REPACKED FOREIGN CRAB MEAT**

(a) Labeling requirements for repacked crab meat are described in 15A NCAC 18A .0173. Additionally, it shall be unlawful to sell foreign crab meat that has been repacked into another container unless the container is labeled in accordance with the following:

- (1) the country of origin of the crab meat preceded by “Product of” shall be displayed in bold permanent print letters not smaller than 18-point type on the lid and in two places that are on opposite sides of the container; and
- (2) a check-off panel or use of a stamp applied to the container after it was originally printed to indicate country of origin shall not be allowed to fulfill the labeling requirements in Subparagraph (a)(1) of this Paragraph.

(b) 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. (Pending legislative review pursuant to S.L. 2019-198).*



# Proposed MFC Rule 15A NCAC 03L .0211

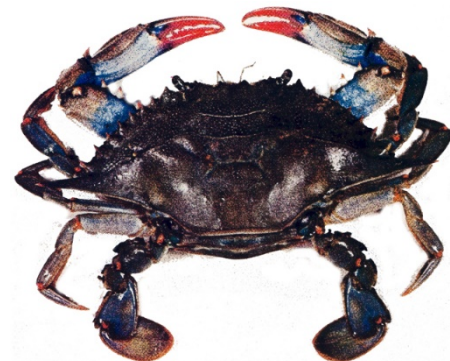
## 15A NCAC 03L .0211 ADDITIONAL LABELING REQUIREMENTS FOR REPACKED FOREIGN CRAB MEAT

(a) Labeling requirements for repacked crab meat are described in 15A NCAC 18A .0173. Additionally, it shall be unlawful to sell foreign crab meat that has been repacked into another container unless the container is labeled in accordance with the following:

- (1) the country of origin of the crab meat preceded by "Product of" shall be displayed in bold permanent print letters not smaller than 18-point type on the lid and in two places that are on opposite sides of the container; and
- (2) a check-off panel or use of a stamp applied to the container after it was originally printed to indicate country of origin shall not be allowed to fulfill the labeling requirements in Subparagraph (a)(1) of this Paragraph.

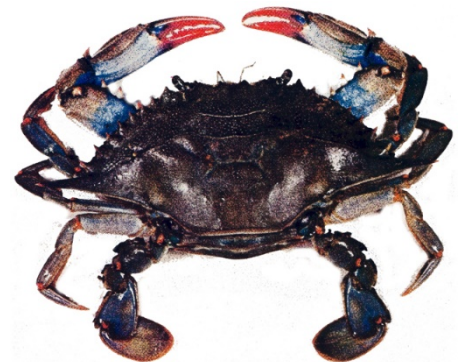
(b) This rule does not apply to crab meat that has been transformed into another product, such as crab cakes or other value-added products.

*History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52; Eff. (Pending legislative review pursuant to S.L. 2019-198).*



# *Proposed MFC Rule 15A NCAC 03L .0211*

- *“Product of” to precede the country of origin was additional to the MFC motion:*
  - Conforms to US Code of Federal Regulations (19 CFR 134)
  - “Made in”, “Product of” or similar language is required when the name of a location in the US is present on the container and may mislead the purchaser as to the country of origin (Example- Repacker facility address, etc.)
  - “Product of” was chosen as the language is already used in the industry
- Requiring the country of origin on two opposite sides of the container was additional to the MFC motion in order to reduce ambiguity



# Proposed MFC Rule 15A NCAC 03L .0211

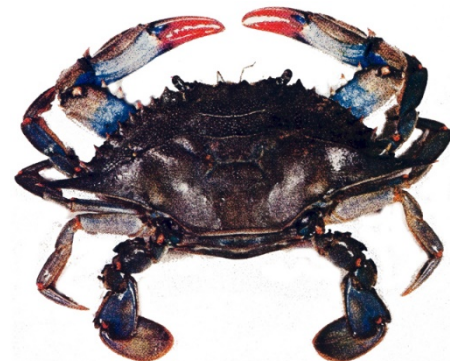
## 15A NCAC 03L .0211 ADDITIONAL LABELING REQUIREMENTS FOR REPACKED FOREIGN CRAB MEAT

(a) Labeling requirements for repacked crab meat are described in 15A NCAC 18A .0173. Additionally, it shall be unlawful to sell foreign crab meat that has been repacked into another container unless the container is labeled in accordance with the following:

- (1) the country of origin of the crab meat preceded by "Product of" shall be displayed in bold permanent print letters not smaller than 18-point type on the lid and in two places that are on opposite sides of the container; and
- (2) a check-off panel or use of a stamp applied to the container after it was originally printed to indicate country of origin shall not be allowed to fulfill the labeling requirements in Subparagraph (a)(1) of this Paragraph.

(b) 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. (Pending legislative review pursuant to S.L. 2019-198).*



# *Proposed MFC Rule 15A NCAC 03L .0211*

- Out of state crab processors would be required to conform to additional labeling requirements in order to sell repacked foreign crab meat in NC:
  - Possible redesign of containers due to 18-point type for country of origin (~0.25" tall) required in three locations on container
  - Unknown whether processors would change labeling or alternatively choose to stop shipping repacked foreign crab meat to NC
  - Could affect retailers and consumers should availability change

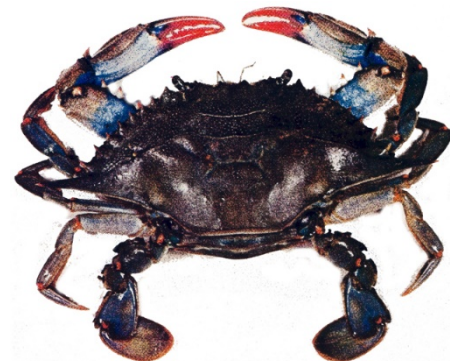
## Example for Text Size Only

**“Gourmet”** and **“Crabmeat”**  
are approximately 18-point  
type size



## *Proposed MFC Rule 15A NCAC 03L .0211*

- Out of state crab processors would be required to conform to additional labeling requirements in order to sell repacked foreign crab meat in NC:
  - Possible redesign of containers due to 18-point type for country of origin (~0.25" tall) required in three locations on container
  - Unknown whether processors would change labeling or alternatively choose to stop shipping repacked foreign crab meat to NC
  - Could affect retailers and consumers should availability change
- Possible enforcement challenges for NC Marine Patrol:
  - Potentially large number of grocery/retail outlets statewide and geographic spread
  - Potential issues with differentiating foreign crab meat that has been repacked vs. foreign crab meat that remains in the original container (VA, MD)
- It is likely that after awareness and education of any new rule that only compliant containers would be sent to NC



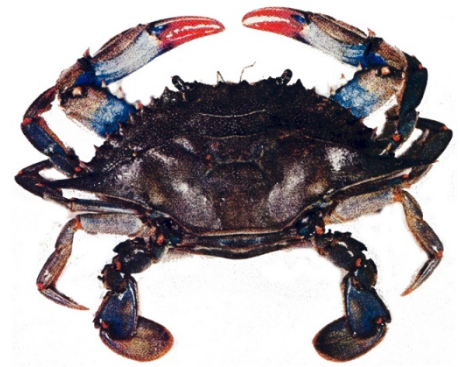
# Summary of Options

1. Status quo: continue to allow foreign crab meat that has been repacked in another state to be sold in North Carolina without additional labeling requirements.
  - + Avoids further economic impact on any North Carolina crab processors that would participate in this activity as well any grocery stores and retail outlets that market that type of product due to the additional labeling requirements.
  - Does not resolve the possible loophole identified whereby North Carolina crab processors could have foreign crab meat repacked out of state and marketed within the State.
  - Does not resolve the potential for fraud or confusion by North Carolina consumers regarding whether retail crab meat is domestic or foreign due to less obvious labeling requirements.
  - Does not comply with the MFC motion.
  
2. Adopt MFC Rule 15A NCAC 03L .0211 that would require additional labeling requirements for containers of repacked foreign crab meat to be sold in North Carolina.
  - + Complies with the MFC motion.
  - + Reduces the potential for fraud or confusion by North Carolina consumers regarding whether retail crab meat is domestic or foreign due to the more obvious labeling requirements.
  - May have a negative economic impact as a result of the additional labeling requirements for any North Carolina crab processors that may use out of state processors to repack foreign crab meat to sell in the State and any grocery stores or retail outlets that market that type of product.
  - Likely creates enforcement challenges for Marine Patrol, especially across the geographic spread of grocery stores and retail outlets across the state.



## *Action Needed*

- Marine Fisheries Commission vote on preferred management option and associated language for rulemaking







**Shannon Jenkins**  
**PO Box 769**  
**Morehead City, NC 28557**  
**(252) 808-8148**  
**[shannon.jenkins@ncdenr.gov](mailto:shannon.jenkins@ncdenr.gov)**

**Shawn Nelson**  
**PO Box 769**  
**Morehead City, NC 28557**  
**(252) 808-8157**  
**[shawn.nelson@ncdenr.gov](mailto:shawn.nelson@ncdenr.gov)**