

15A NCAC 03I .0105 LEAVING DEVICES UNATTENDED

(a) It shall be unlawful to leave stakes, anchors, nets, buoys, or floating devices in Coastal Fishing Waters if such devices are not being employed in commercial fishing operations, except as otherwise provided by rule or General Statute.

(b) It shall be unlawful to use or possess fishing equipment in Coastal Fishing Waters in violation of this Section or that contains edible species of fish unfit for human consumption.

(c) It shall be unlawful to leave pots in Coastal Fishing Waters for more than five consecutive days if such pots are not being employed in commercial fishing operations, except upon a timely and sufficient showing of hardship as set forth in Paragraph (d) of this Rule or as otherwise provided by General Statute. The Fisheries Director may, by proclamation, modify the five-day requirement if necessary due to hurricanes, tropical storms, other severe weather events recognized by the National Weather Service, or other variable conditions pursuant to 15A NCAC 03H .0103. Inspectors may tag pots with a device approved by the Fisheries Director to aid and assist in the investigation and identification of unattended pots. Any such device attached to a pot by agents of the Fisheries Director shall be removed by the individual using the pot within five days of attachment in order to demonstrate that the pot is being employed in commercial fishing operations.

(d) For the purpose of this Rule, a timely and sufficient showing of hardship in a commercial fishing operation shall be a statement in writing from the owner of the pot or the owner's immediate family, as defined in G.S. 113-168, submitted to the Fisheries Director that a mechanical breakdown of the pot owner's vessel currently registered with the Division of Marine Fisheries pursuant to G.S. 113-168.6, or the death, illness, or incapacity of the owner of the pot or the owner's immediate family prevented or will prevent employing such pots in commercial fishing operations for more than five consecutive days. Statements and supporting documentation shall be mailed to the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557. Mailing a statement does not automatically exempt a fisherman from the requirements of this Rule. The statement shall specify the number and specific location of the pots, the date by which the pots will be employed in commercial fishing operations or removed from Coastal Fishing Waters, and:

- (1) in the case of a mechanical breakdown, the Commercial Fishing Vessel Registration number, owner's N.C. motor boat registration number of the disabled vessel, date disabled, and description of the arrangements being made to repair the vessel or a copy of the work order showing the name, address, and phone number of the repair facility; or
- (2) in the case of the death, illness, or incapacity of the owner of the pot or the owner's immediate family, the name of the owner or immediate family member and either the date of death or the date of the illness or incapacity. The Fisheries Director may require a doctor's verification that the illness or incapacity occurred.

(e) It shall be unlawful to fail to employ in commercial fishing operations or remove from Coastal Fishing Waters all pots for which a hardship request is granted under this Rule within 14 days of the expiration of the hardship.

*History Note: Authority G.S. 113-134; 113-136; 113-137; 113-182; 143B-289.52;
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