

# ***RULEMAKING UPDATE***



ROY COOPER  
*Governor*

MICHAEL S. REGAN  
*Secretary*

STEPHEN W. MURPHEY  
*Director*

January 24, 2020

## MEMORANDUM

**TO:** N.C. Marine Fisheries Commission

**FROM:** Catherine Blum, Fishery Management Plan and Rulemaking Coordinator  
Fisheries Management Section

**SUBJECT:** Rulemaking Update

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### Issues

Provide an update to the Marine Fisheries Commission (MFC) on the status of rulemaking and request the MFC vote on the final readoption of two rules. The MFC will also have the opportunity to vote on its preferred management option for the Shrimp Fishery Management Plan (FMP) Amendment 1 Special Secondary Nursery Area (SSNA) issue paper.

### Findings

- 2019/2020 Rulemaking Cycle – Final Adoption of Rules
  - At its August 2019 meeting, the MFC approved the fiscal analysis and notice of text for rulemaking to begin the readoption process for 15A NCAC 03M .0509 (Tarpon) and 03O .0108 (License and Commercial Fishing Vessel Registration) per G.S. 150B-21.3A.
  - The proposed rules were published in the *N.C. Register* Oct. 1, 2019. The public comment period was from Oct. 16 through Dec. 2, 2019. A public hearing was held in Morehead City Oct. 23.
  - Per G.S. 150B-21.2, prior to final readoption the MFC must consider fully all written and oral comments received.
  - The division received 35 public comments on the proposed rules. One email was not in support of the license rule change. Thirty-four public comments were received about the tarpon rule change: four oral comments in support; 23 emails in support, six not in support, and one with mixed comments.
- 2020/2021 Rulemaking Cycle – Select Preferred Management Option
  - In February 2015, the MFC adopted the Shrimp FMP Amendment 1 and its rules. The focus of Amendment 1 was to address bycatch in the commercial and recreational shrimp fishery.
  - Amendment 1 included a recommendation by the MFC for its Habitat and Water Quality Advisory Committee to provide input on changing certain SSNAs that have not been opened to trawling since 1991 to permanent Secondary Nursery Areas.
  - In 2016 and 2019, petitions for rulemaking were submitted that potentially overlapped with this issue. Both petitions have been resolved.
  - Division staff drafted the Shrimp FMP Amendment 1 SSNA issue paper and obtained input from the advisory committee, as directed.

### Action Needed

The MFC is scheduled to vote on the final readoption of 15A NCAC 03M .0509 and 03O .0108 and has the opportunity to vote to select its preferred management option for the Shrimp FMP Amendment 1 SSNA issue paper.

### Recommendation

Staff recommends the MFC vote on the final readoption of 15A NCAC 03M .0509 and 03O .0108. Staff requests the MFC vote to select its preferred management option for the Shrimp FMP Amendment 1 SSNA issue paper, to facilitate the rulemaking process. For a copy of the supporting documents, including rules, public comments, and the SSNA issue paper, see the [Rulemaking](#) section of the briefing materials.

## Rulemaking Update

### 15A NCAC 03 - Marine Fisheries

#### *2019-2020 Rulemaking Cycle*

##### Overview of Public Comments Received

At its August 2019 meeting, the MFC approved the fiscal analysis and notice of text for rulemaking to begin the readoption process for the second of four packages of rules in 15A NCAC 03. A handout showing the steps in the [MFC's 2019-2020 annual rulemaking cycle](#) is included in the briefing materials. This package includes two proposed rules for readoption: 15A NCAC 03M .0509, Tarpon, and 15A NCAC 03O .0108, License and Commercial Fishing Vessel Registration Transfers. A [copy of the rules](#) as published Oct. 1, 2019 in the *N.C. Register* is included in the briefing materials. The public comment period was from Oct. 16 to Dec. 2, 2019 and a public hearing was held Oct. 23 in Morehead City. The division received 35 public comments on the proposed rules. A [copy of the emailed comments](#) and [a summary of the public hearing](#) is included in the briefing materials. One email was not in support of the license rule change. Thirty-four public comments were received about the tarpon rule change: four oral comments in support; 23 emails in support, six not in support, and one with mixed comments.

##### MFC Vote on Final Approval of Rules

The MFC is scheduled to vote on the final readoption of 15A NCAC 03M .0509 and 03O .0108. Per G.S. 150B-21.2, prior to final readoption the MFC must consider fully all written and oral comments received. If the MFC approves the final readoption of the rules as published, the rules will be submitted to the Rules Review Commission for approval. The proposed effective date of the rules is subject to legislative review per S.L. 2019-198 and G.S. 14-4.1.

#### *2020-2021 Rulemaking Cycle*

##### Shrimp FMP Amendment 1 Special Secondary Nursery Area Issue Paper

In February 2015, the MFC adopted the Shrimp FMP Amendment 1 and its rules. The focus of Amendment 1 was to address bycatch in the commercial and recreational shrimp fishery. Amendment 1 included a recommendation by the MFC for its Habitat and Water Quality Advisory Committee to provide input on changing certain Special Secondary Nursery Areas (SSNAs) that have not been opened to trawling since 1991 to permanent Secondary Nursery Areas. In 2016 and 2019, petitions for rulemaking were submitted that potentially overlapped with this issue. Both petitions have been resolved. Division staff drafted the Shrimp FMP Amendment 1 SSNA issue paper and obtained input from the advisory committee, as directed. A copy of the [SSNA issue paper](#) is included in the briefing materials. Staff will give a presentation to the MFC at the February commission meeting. Staff requests the MFC vote to select its preferred management option for the issue, to facilitate the rulemaking process and the required fiscal analysis of proposed rule changes.

##### Oyster Sanctuary Rule Change Issue Paper Update

The Division of Marine Fisheries Oyster Sanctuary Program is responsible for creating artificial reef habitat, designed to support healthy and abundant oyster populations throughout Pamlico Sound and its tributaries. Background on the program is provided in the [oyster sanctuary issue paper](#) in the briefing materials. Once built, a reef site is protected from harvest by rule or proclamation to preserve broodstock and is called an “oyster sanctuary.” With healthy and abundant broodstock populations inside sanctuary boundaries, these sites serve their intended function by supplying oyster larvae to other reefs nearby.

Division staff propose amendments to the current oyster sanctuary rule that would add the boundaries of five additional sanctuaries (Long Shoal, Little Creek, Pea Island, Raccoon Island, and Swan Island) to rule. These sanctuaries are serving their intended function and can now be moved from the protection of proclamation to permanent rule. Additional proposed amendments would update boundaries for three existing sanctuaries

(Neuse River, West Bluff, and Gibbs Shoal). Side-scan imagery revealed these sanctuaries have material slightly outside of their permitted boundaries. This is likely due to construction error or slight movement during material settlement. To prevent this error from occurring during future development, the division recommends establishing a 100-foot buffer of no development for reef construction. Proposed changes to the rule also include removing the boundaries of two sanctuaries (Ocracoke and Clam Shoal) that are not serving their intended function. While these two areas do not sustain high population densities of adult oysters, they continue to provide valuable habitat and would be managed as artificial reefs.

Overall, the proposed rule changes would align the rule with the current status of the state's oyster sanctuaries and comply with the principles of rulemaking in G.S. 150B. The oyster sanctuary issue paper is provided as information to the MFC; no action is needed to begin the rulemaking process until the MFC's May 2020 meeting.

15A NCAC 18A - Sanitation

*Readoption Schedule Update*

The process of rule readoption for MFC rules in 15A NCAC 18A is scheduled to begin at the MFC’s May 2020 business meeting. Given the large number of rules subject to readoption, the wide variety of issues regulated by these rules, and the generally controversial nature of the rules, this will be the first of several years to readopt rules. In preparation for the May meeting, staff recommended a four-year readoption schedule for the rules of June 30, 2024. At its November 2019 meeting, the MFC approved the staff recommendation. MFC Chairman Rob Bizzell sent a [letter](#) to the Rules Review Commission Chairman Jeffery T. Hyde asking for the schedule to be approved. On Jan. 16, 2020, the Rules Review Commission approved the readoption schedule. The MFC is now ready to begin the rule readoption process at its May 2020 business meeting.

**Background Information**

Periodic Review and Expiration of Existing Rules per G.S. 150B-21.3A

Session Law 2013-413, the Regulatory Reform Act of 2013, implemented requirements known as the “Periodic Review and Expiration of Existing Rules.” These requirements are codified in a new section of Article 2A of Chapter 150B of the General Statutes in G.S. 150B-21.3A. Under the requirements, each agency is responsible for conducting a review of all its rules at least once every 10 years in accordance with a prescribed process.

The review has two parts. The first is a report phase, which has concluded, followed by the readoption of rules. An evaluation of the rules under the authority of the MFC was undertaken in two lots (see Figure 1.) The MFC has 211 rules in Chapter 03 (Marine Fisheries), of which 172 are subject to readoption, and 164 rules in Chapter 18, Subchapter 18A (Sanitation) that are also subject to readoption. The MFC is the body with the authority for the approval steps prescribed in the process.

Rules	2017	2018	2019	2020	2021	2022	2023	2024
Chapter 03 (172 rules)	Report	41 Rules Readopted	Rule Readoption (131)			6/30/22 deadline		
Subchapter 18A (164 rules)			Report	Rule Readoption (164)				6/30/24 deadline

Figure 1. Marine Fisheries Commission rule readoption schedule to comply with G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules.

## N.C. Marine Fisheries Commission 2019-2020 Annual Rulemaking Cycle

February 2020

Time of Year	Action
April-July 2019	Fiscal analysis of rules prepared by DMF staff and approved by Office of State Budget and Management
August 2019	MFC approved Notice of Text for Rulemaking
Oct. 1, 2019	Publication of proposed rules in the <i>North Carolina Register</i>
Oct. 16-Dec. 2, 2019	Public comment period held
Wednesday, Oct. 23, 2019	Public hearing held: 6 p.m., Division of Marine Fisheries, 5285 Highway 70 West, Morehead City, NC 28557
February 2020	MFC considers approval of permanent rules
April 2020	Rules reviewed by Office of Administrative Hearings Rules Review Commission.
TBD	Proposed effective date of rules is subject to legislative review per S.L. 2019-198 and G.S. 14-4.1.

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## Contact List for Rulemaking Questions or Concerns

For questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address, but are not inclusive.

### **Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.**

Office of Administrative Hearings  
Rules Division  
1711 New Hope Church Road (919) 431-3000  
Raleigh, North Carolina 27609 (919) 431-3104 FAX

contact: Molly Masich, Codifier of Rules molly.masich@oah.nc.gov (919) 431-3071  
Dana McGhee, Publications Coordinator dana.mcghee@oah.nc.gov (919) 431-3075  
Lindsay Silvester, Editorial Assistant lindsay.silvester@oah.nc.gov (919) 431-3078  
Cathy Matthews-Thayer, Editorial Assistant cathy.thayer@oah.nc.gov (919) 431-3006

### **Rule Review and Legal Issues**

Rules Review Commission  
1711 New Hope Church Road (919) 431-3000  
Raleigh, North Carolina 27609 (919) 431-3104 FAX

contact: Amber Cronk May, Commission Counsel amber.may@oah.nc.gov (919) 431-3074  
Amanda Reeder, Commission Counsel amanda.reeder@oah.nc.gov (919) 431-3079  
Ashley Snyder, Commission Counsel ashley.snyder@oah.nc.gov (919) 431-3081  
Alexander Burgos, Paralegal alexander.burgos@oah.nc.gov (919) 431-3080  
Julie Brincefield, Administrative Assistant julie.brincefield@oah.nc.gov (919) 431-3073

### **Fiscal Notes & Economic Analysis**

Office of State Budget and Management  
116 West Jones Street (919) 807-4700  
Raleigh, North Carolina 27603-8005 (919) 733-0640 FAX  
Contact: Carrie Hollis, Economic Analyst osbmruleanalysis@osbm.nc.gov (919) 807-4757

NC Association of County Commissioners  
215 North Dawson Street (919) 715-2893  
Raleigh, North Carolina 27603  
contact: Amy Bason amy.bason@ncacc.org

NC League of Municipalities (919) 715-4000  
150 Fayetteville Street, Suite 300  
Raleigh, North Carolina 27601  
contact: Sarah Collins scollins@nclm.org

### **Legislative Process Concerning Rule-making**

545 Legislative Office Building  
300 North Salisbury Street (919) 733-2578  
Raleigh, North Carolina 27611 (919) 715-5460 FAX

Jason Moran-Bates, Staff Attorney  
Jeremy Ray, Staff Attorney

**NORTH CAROLINA REGISTER**  
Publication Schedule for January 2019 – December 2019

<b>FILING DEADLINES</b>			<b>NOTICE OF TEXT</b>		<b>PERMANENT RULE</b>			<b>TEMPORARY RULES</b>
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 <sup>th</sup> day from publication in the Register
33:13	01/02/19	12/06/18	01/17/19	03/04/19	03/20/19	04/18/19	05/01/19	09/29/19
33:14	01/15/19	12/19/18	01/30/19	03/18/19	03/20/19	04/18/19	05/01/19	10/12/19
33:15	02/01/19	01/10/19	02/16/19	04/02/19	04/22/19	05/16/19	06/01/19	10/29/19
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This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.



## EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

### GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
- (7) other information the Codifier of Rules determines to be helpful to the public.

**COMPUTING TIME:** In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

### FILING DEADLINES

**ISSUE DATE:** The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

**LAST DAY FOR FILING:** The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

### NOTICE OF TEXT

**EARLIEST DATE FOR PUBLIC HEARING:** The hearing date shall be at least 15 days after the date a notice of the hearing is published.

**END OF REQUIRED COMMENT PERIOD**  
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

**DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION:** The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for re adoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://info.ncdhhs.gov/dhsr/ruleactions.html>

Proposed Effective Date: March 1, 2020

Public Hearing:

Date: November 13, 2019

Time: 10:00 a.m.

Location: Dorothea Dix Park, Edgerton Building, Room 026, 809 Ruggles Drive, Raleigh, NC 27603

Reason for Proposed Action: Pursuant to GS 150B-21.3A, Periodic Review and Expiration of Existing Rules, all rules are reviewed at least every 10 years or they shall expire. As a result of the periodic review of Chapter 10A NCAC 15, Radiation Protection, these two proposed re adoption rules were determined as "Necessary With Substantive Public Interest," requiring re adoption. Rule 10A NCAC 15 .1102 is proposed for re adoption with substantive changes to update division and department name through technical changes and add the option for online fee payment for licensees and registrants. Rule 10A NCAC 15 .1106 is proposed for re adoption without substantive changes with no change to the text of the rule because of an amendment to this rule that became effective 5/1/19.

Comments may be submitted to: Nadine Pfeiffer, 809 Ruggles Drive, 2701 Mail Service Center, Raleigh, NC 27699-2701; email [DHSR.RulesCoordinator@dhhs.nc.gov](mailto:DHSR.RulesCoordinator@dhhs.nc.gov)

Comment period ends: December 2, 2019

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM

No fiscal note required

CHAPTER 15 - RADIATION PROTECTION

SECTION .1100 - FEES

10A NCAC 15 .1102 PAYMENT DUE

- (a) All fees established in this Section shall be due on the first day of July of each year.
(b) Notwithstanding Paragraph (a) of this Rule, when a new license or registration is issued by the agency after the effective date of this Rule or after the first day of July of any subsequent year, the initial fee shall be due on the date of issuance of the license or registration.
(c) The initial fee in Paragraph (b) of this Rule shall be computed as follows:
(1) When any new license or registration is issued before the first day of January of any year, the initial fee shall be the full amount specified in Rule .1105 or .1106 of this Section; and
(2) When any new license or registration is issued on or after the first day of January of any year, the initial fee shall be one-half of the amount specified in Rule .1105 or .1106 of this Section.

(d) All fees received by the agency pursuant to provisions of this Section shall be nonrefundable.

(e) Each licensee or registrant shall pay all fees online at https://www.thepayplace.com/northcarolinadhhs/dhsr/ncrpsfees/challenge.aspx, or by check or money order made payable to "Radiation Protection Section" and mail such payment to: Radiation Protection Section, Division of Environmental Health, Department of Environment and Natural Resources, 1645 Mail Service Center, Raleigh, North Carolina 27699 1645. Such payment may be delivered to the agency at its office located at 3825 Barrett Drive, Raleigh, North Carolina 27609 7224. Health Service Regulation, Department of Health and Human Services to the address shown on the facility invoice.

Authority G.S. 104E-9(a)(8); 104E-19(a).

10A NCAC 15 .1106 RADIOACTIVE MATERIALS AND ACCELERATOR FEE AMOUNTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g that the Marine Fisheries Commission intends to re adopt with substantive changes the rules cited as 15A NCAC 03M .0509; and 03O .0108.

Link to agency website pursuant to G.S. 150B-19.1(c): http://portal.ncdenr.org/web/mf/mfc-proposed-rules-links

Proposed Effective Date: Subject to Legislative Review per S.L. 2019-198.

Public Hearing:

Date: October 23, 2019

Time: 6:00 p.m.

Location: Division of Marine Fisheries, 5285 Highway 70 West, Morehead City, NC 28557

Reason for Proposed Action: The agency proposed two rules for re adoption in accordance with G.S. 150B-21.3A for the Periodic Review and Expiration of Existing Rules. This is the second of four packages of rules in 15A NCAC 03 for re adoption over a four-year period. Proposed text shows conforming and minor technical changes to the rules. Additional changes are proposed to 15A NCAC 03M .0509 to make it unlawful to puncture or harvest tarpon, but to still allow catch and release. These changes are proposed to improve the survival of the fish. Additional changes are proposed to 15A NCAC 03O .0108 to allow transfers of Standard Commercial Fishing Licenses (SCFL) or Retired SCFL's under specific conditions, in addition to the conditions set forth in G.S. 113-168.2. These proposed changes provide flexibility for businesses to complete license transfers under specific conditions; the changes also add additional immediate family members as individuals eligible to receive a transferred license.

Comments may be submitted to: Catherine Blum, P.O. Box 769, Morehead City, NC 28557; phone (252) 808-8014; email catherine.blum@ncdenr.gov

Comment period ends: December 2, 2019

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

CHAPTER 03 - MARINE FISHERIES

SUBCHAPTER 03M - FINFISH

SECTION .0500 - OTHER FINFISH

15A NCAC 03M .0509 TARPON

- (a) It is shall be unlawful to sell possess, sell, or offer for sale tarpon.
(b) It is unlawful to possess more than one tarpon per person taken in any one day.
(c) It is shall be unlawful to take tarpon by any method other than hook and line. hook and line.
(c) It shall be unlawful to gaff, spear, or puncture a tarpon.

Authority G.S. 113-134; 113-182; 113-221; 143B-289.4; 143B-289.52.

SUBCHAPTER 03O - LICENSES, LEASES, FRANCHISES AND PERMITS

SECTION .0100 - LICENSES

15A NCAC 03O .0108 LICENSE AND COMMERCIAL FISHING VESSEL REGISTRATION TRANSFERS

- (a) To transfer a license or Commercial Fishing Vessel Registration, the license or registration cannot be expired prior to transfer.
(b) Upon transfer of a license or Commercial Fishing Vessel Registration, the transferee becomes the licensee and assumes the privileges of holding the license or Commercial Fishing Vessel Registration.
(c) A transfer application including a certification statement form shall be provided by the Division of Marine Fisheries. A transfer application shall be completed for each transfer including, but not limited to:

- (1) the information required as set forth in Rule .0101(a) of this Section;
(2) a certified statement from the transferee listing any violations involving marine and estuarine resources in the State of North Carolina during the previous three years; and
(3) a certified statement from the transferee that the information and supporting documentation submitted with the transfer application is true and correct, and that the transferee acknowledges that it is unlawful for a person to accept transfer of a license for which they are ineligible.

(d) A properly completed transfer application shall be returned to an office of the Division by mail or in person, except as set forth in Paragraph (e) of this Rule.

(e) A transfer application submitted to the Division without complete and required information shall be deemed incomplete and shall not be considered further until resubmitted with all required information. Incomplete applications shall be returned to the applicant with deficiency in the application so noted.

(a)(f) Licenses A License to Land Flounder from the Atlantic Ocean may shall only be transferred:

- (1) with the transfer of the ownership of a vessel that the licensee owns that individually met the eligibility requirements of 15A NCAC 3O .0101 (b)(1)(A) and (b)(1)(B) Rule .0101(b)(1)(A) and (b)(1)(B) of this Section to the new owner of that vessel. Transfer of the License to Land Flounder from the Atlantic Ocean transfers all flounder landings from the Atlantic Ocean associated with that vessel; or
(2) by the owner of a vessel to another vessel under the same ownership.

Transfer of a License to Land Flounder from the Atlantic Ocean transfers with it all flounder landings from the Atlantic Ocean associated with that vessel. Any transfer of license under this Paragraph may shall only be processed through the Division of Marine Fisheries Morehead City Headquarters Office and no transfer is effective until approved and processed by the Division.

(b)(g) Transfer of a Commercial Fishing Vessel Registration Transfer. Registration: When if transferring ownership of a vessel

bearing a current ~~commercial fishing vessel registration, Commercial Fishing Vessel Registration~~, the new ~~owner~~ owner:

- (1) shall follow the requirements in ~~15A NCAC 030 .0101~~ Rule .0101 of this Section and pay a replacement fee of ~~ten dollars (\$10.00)~~ as set forth in Rule .0107 of this Section for a replacement ~~commercial fishing vessel registration, Commercial Fishing Vessel Registration~~; and
- (2) ~~The new owner must~~ shall submit a transfer form application provided by the Division with the signatures of the former ~~licensee~~ owner and the ~~signature of the new licensee~~ owner notarized.

~~(e)~~(h) Transfer of a Standard or Retired Standard Commercial Fishing License transfers: License:

- (1) It is unlawful for a person to accept transfer of a Standard or Retired Standard Commercial Fishing License for which they are ineligible.
- ~~(+)~~(2) A Standard or Retired Standard Commercial Fishing License ~~may~~ shall only be transferred if both the transferor and the transferee have no current suspensions or revocations of any Marine Fisheries license privileges. In the event of the death of the transferor, this requirement shall only apply to the transferee.

(3) For purposes of effecting transfers under this Paragraph:

- (A) in addition to those family members defined in G.S. 113-168(3a), "immediate family" shall mean grandparents, grandchildren, and legal guardians of an individual;
- (B) "business" shall mean corporations and limited liability companies that have been registered with the Secretary of State; and
- (C) "owner" shall mean owner, shareholder, or manager of a business.

~~(2)~~(4) At the time of the transfer of a Standard or Retired Standard Commercial Fishing License, the transferor ~~must~~ shall indicate the retainment or transfer of the landings history associated with that Standard or Retired Standard Commercial Fishing License. The transferor may retain a landings history only if the transferor holds an additional Standard or Retired Standard Commercial Fishing License. Transfer of a landings history is all or none.

~~(3)~~(5) To transfer a Standard or Retired Standard Commercial Fishing License, the following information is required:

- (A) information on the transferee as set ~~out~~ forth in 15A NCAC 030 .0101; Rule .0101 of this Section;
- (B) notarization of the ~~current license holder's~~ transferor's and the transferee's signatures on a the transfer

~~form provided by the Division; application; and~~

~~(C)~~ when the transferee is a non-resident, a written certified statement from the applicant listing any violations involving marine and estuarine resources during the previous three years;

~~(D)~~(C) when if the transferor is retiring from commercial fishing, the transferor must submit evidence showing that such retirement has in fact occurred, for example, which may include, but is not limited to, evidence of the transfer of all licensee's the transferor's Standard Commercial Fishing Licenses, sale of all the licensee's transferor's registered vessels, or discontinuation of any active involvement in commercial fishing.

~~Properly completed transfer forms must be returned to Division Offices by mail or in person.~~

~~(4)~~(6) The Standard or Retired Standard Commercial Fishing License ~~which that~~ is being transferred must shall be surrendered to the Division at the time of the transfer application.

~~(5)~~(7) Fees:

(A) ~~Transferee~~ The transferee must shall pay a replacement fee of ~~ten dollars (\$10.00)~~ as set forth in Rule .0107 of this Section.

(B) ~~Transferee~~ The transferee must shall pay the differences in fees as specified in G.S. 413-168.2 (e) 113-168.2(e) or G.S. 413-168.3 (b) 113-168.3(b) ~~when if the transferee who is a non-resident is being transferred a resident Standard or Retired Standard Commercial Fishing License. non-resident.~~

(C) ~~Transferee~~ The transferee must shall pay the differences in fees as specified in G.S. 413-168.2 (e) 113-168.2(e) ~~when if the license to be transferred is a Retired Standard Commercial Fishing License and the transferee is less than 65 years old.~~

(8) Transfer of Standard or Retired Standard Commercial Fishing License for a Business:

(A) An individual holding a Standard or Retired Standard Commercial Fishing License may transfer their license to a business in which the license holder is also an owner of the business in accordance with application requirements as set forth in Rule .0101(a) of this Section.

(B) If a business is dissolved, the business may transfer the license or licenses of the business to an individual owner of the dissolved business. A dissolved business holding multiple licenses may transfer one license or multiple licenses to one owner or multiple owners or any combination thereof. A notarized statement showing agreement for the transfer of all owners of the business is required to complete this transaction.

(C) If a business is sold, the business may transfer the license or licenses of the business to the successor business at the time of sale.

(D) If an owner leaves the business, any license originally owned by that owner may be transferred back to themselves as an individual at the time the owner leaves the corporation. A notarized statement showing agreement for the transfer of all owners of the business is required to complete this transaction.

~~(6)~~(9) Transfer of Standard or Retired Standard Commercial Fishing License for a Deceased Licensee: Licensee:

(A) ~~When the deceased licensee's~~ If an immediate surviving family member(s) member of the deceased licensee is eligible to hold the deceased's deceased licensee's Standard Commercial Fishing License or Retired Standard Commercial Fishing License, the Administrator/Executor must give written notification within six months after the Administrator/Executor qualifies under G.S. 28A to the ~~Morehead City Office of the Division of Marine Fisheries of the request to transfer the deceased's deceased's~~ license to the estate Administrator/Executor.

(B) A transfer to the Administrator/Executor shall be made according to the provisions of Subparagraphs ~~(e)(2) through (4)~~ (e)(4)(2) through (4) of this Rule. Paragraph. The Administrator/Executor must provide a copy of the deceased licensee's death certificate, a copy of the certificate of ~~administration~~ administration, and a list of eligible immediate family members to the ~~Morehead City Office of the Division of Marine Fisheries. Division.~~

(C) The Administrator/Executor ~~may~~ shall only transfer a license in the

Administrator/Executor name on behalf of the estate to a an eligible surviving family member. The surviving family member transferee ~~may~~ shall only transfer the license to a third party purchaser of the deceased licensee's fishing vessel. Transfers shall be made according to the provisions of Subparagraphs ~~(e) 2—(e)(4)(2) through (4)~~ of this Rule. Paragraph.

~~(d) Transfer forms submitted without complete and required information shall be deemed incomplete and will not be considered further until resubmitted with all required information.~~

~~(e) It is unlawful for a person to accept transfer of a Standard or Retired Standard Commercial Fishing License for which they are ineligible.~~

Authority G.S. 113-134; 113-168.1; 113-168.2; 113-168.3; 113-168.6; 113-182; 143B-289.52.

\*\*\*\*\*

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10F .0306 and .0340.*

**Link to agency website pursuant to G.S. 150B-19.1(c):** <https://www.ncwildlife.org/Proposed-Regulations>

**Proposed Effective Date:** May 1, 2020

**Public Hearing:**

**Date:** October 17, 2019

**Time:** 10:00 a.m.

**Location:** WRC Headquarters, 5th Floor, 1751 Varsity Drive, Raleigh, NC 27606

**Reason for Proposed Action:**

**15A NCAC 10F .0306** *The Town of Carolina Beach submitted an application and Resolution requesting rulemaking for a no-wake zone in a portion of Myrtle Grove Sound on the eastern side, to mitigate boater safety hazards within 50 yards of the fueling docks and community pier at Oceana Marina and Carolina Beach Yacht Club and Marina, and within 50 yards of the shoreline in the congested area south of Carolina Beach Yacht Club and Marina to the intersection with the existing no-wake zone at Carolina Beach Yacht Basin. The U.S. Army Corps of Engineers concurs with placement of markers in this portion of the Intracoastal Waterway if the no-wake zone does not extend into the federal channel. The Town of Carolina Beach will purchase and place buoys and pilings and obtain the required CAMA permit. A Fiscal Note was submitted to OSBM and was approved by the WRC on 8-29-19.*

**15A NCAC 10F .0340** *Currituck County submitted an application and Resolution for rulemaking for a no-wake zone within the canals at Wild Horse Estates at Carova Beach. Canals are shallow and narrow with sharp turns, creating boater safety*

N.C. Marine Fisheries Commission  
2019-2020 Annual Rulemaking Cycle

Public Comment Period  
Oct. 16-Dec. 2, 2019

Written Public Comments

**From:** [Blum, Catherine](#)  
**To:** [REDACTED]  
**Subject:** RE: [External] Re: [DENR.DMF.NewsRelease] Marine Fisheries Commission accepting public comment on two proposed rule changes  
**Date:** Wednesday, October 02, 2019 12:06:00 PM

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Dear Jerry Anderson,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the License and Commercial Fishing Vessel Registration Transfers rule, 15A NCAC 03O .0108. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
Fishery Management Plan and Rulemaking Coordinator  
Division of Marine Fisheries  
N.C. Department of Environmental Quality

252-808-8014 office  
252-726-0254 fax  
[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)

P.O. Box 769  
3441 Arendell Street  
Morehead City, NC 28557-0769



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---

**From:** Odom, Kelly  
**Sent:** Tuesday, October 01, 2019 2:08 PM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** FW: [External] Re: [DENR.DMF.NewsRelease] Marine Fisheries Commission accepting public comment on two proposed rule changes

Catherine,

Tricia wanted me to forward this to you.

Kelly

*Kelly B. Odom*  
*Education Specialist*  
*N.C. Department of Environmental Quality*  
*Post Office Box 769*  
*Morehead City, NC 28557*  
[\*Kelly.Odom@ncdenr.gov\*](mailto:Kelly.Odom@ncdenr.gov)  
*252-808-8027*

---

**From:** Smith, Tricia <[tricia.smith@ncdenr.gov](mailto:tricia.smith@ncdenr.gov)>  
**Sent:** Tuesday, October 01, 2019 2:07 PM  
**To:** Odom, Kelly <[kelly.odom@ncdenr.gov](mailto:kelly.odom@ncdenr.gov)>  
**Subject:** Re: [External] Re: [DENR.DMF.NewsRelease] Marine Fisheries Commission accepting public comment on two proposed

rule changes

Forward to Catherine.

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**From:** Odom, Kelly <[kelly.odom@ncdenr.gov](mailto:kelly.odom@ncdenr.gov)>  
**Sent:** Tuesday, October 1, 2019 1:26:39 PM  
**To:** Smith, Tricia <[tricia.smith@ncdenr.gov](mailto:tricia.smith@ncdenr.gov)>  
**Subject:** FW: [External] Re: [DENR.DMF.NewsRelease] Marine Fisheries Commission accepting public comment on two proposed rule changes

FYI

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**From:** jerry anderson [REDACTED]  
**Sent:** Tuesday, October 01, 2019 1:20 PM  
**To:** Odom, Kelly <[kelly.odom@ncdenr.gov](mailto:kelly.odom@ncdenr.gov)>  
**Subject:** [External] Re: [DENR.DMF.NewsRelease] Marine Fisheries Commission accepting public comment on two proposed rule changes

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So basically you are making my licence have no value. Can't sell it. I'm glad you're not regulating my real estate.

On Tue, Oct 1, 2019, 10:19 AM Odom, Kelly <[kelly.odom@ncdenr.gov](mailto:kelly.odom@ncdenr.gov)> wrote:

**Roy Cooper**  
*Governor*

**Michael S. Regan**  
*Secretary*



**Steve Murphey**  
*Director*

---

Release: Immediate  
Date: Oct. 1, 2019

Contact: [Patricia Smith](#)  
Phone: 252-726-7021

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#### **Marine Fisheries Commission accepting public comment on two proposed rule changes**

**MOREHEAD CITY** – The N.C. Marine Fisheries Commission is accepting public comments on changes to two rules, one pertaining to tarpon and the other pertaining to transfers of commercial fishing licenses.

The public may comment in person at a public hearing scheduled for Oct. 23 at 6 p.m. at the division's Central District Office, 5285 Highway 70 West, Morehead City. The public may also comment in writing to division Rules Coordinator Catherine Blum at P.O. Box 769, Morehead City, N.C. 28557 or via email at [Catherine.Blum@ncdenr.gov](mailto:Catherine.Blum@ncdenr.gov). The deadline for written comments is Dec. 2.

The proposed rules would:

- Amend 15A NCAC 03M .0509 to prohibit possession of tarpon and make it illegal to gaff, spear, or puncture tarpon by any method other than hook and line.
- Modify 15A NCAC 03O .0108 to clarify the circumstances under which transfers of Standard Commercial Fishing Licenses are allowed, including the following:
  1. Add grandparents, grandchildren, and legal guardians to the list of immediate family members eligible to receive a transferred license.
  2. Codify the existing requirement of a certification statement from the transferee that affirms the information



provided to the division is true and accurate.

3. Allow an individual license holder to transfer the license to a business in which the license holder is also an owner.
4. Allow a business that is dissolved to transfer a license to an individual owner of the business.
5. Allow a business that is sold to transfer a license to the successor business at the time of sale.
6. Allow a business to transfer a license back to an owner who is leaving the business, if the owner originally held the license as an individual.
7. Restrict business transfers to corporations and limited liability companies.
8. Define "owner" to include shareholder of a corporation and member of a limited liability company.

The proposed rule changes come at the request of the Marine Fisheries Commission, which voted in February 2018 to start the process of amending the tarpon rule to improve the survivability of the fish and has, over the past couple of years, expressed concern about the types of license transfers allowed by statute and rule.

Modification of the two rules also meets a state-mandated periodic review schedule under which state agencies must review existing rules at least once every 10 years.

The proposed effective date of the rules is subject to legislative review.

For specific wording of the rule changes, go to the N.C. Marine Fisheries Commission's [Proposed Rules Page](#).

For more information, contact [Catherine Blum](#), rules coordinator for the N.C. Division of Marine Fisheries, at 252-808-8014.

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**Website:** <http://www.ncmarinefisheries.net>  
**Facebook:** <http://www.facebook.com/ncdeq>  
**Twitter:** <http://www.twitter.com/NCDEQ>  
**RSS Feed:** <http://portal.ncdenr.org/web/opa/news-releases-rss>  
P.O. Box 769, 3441 Arendell St., Morehead City N.C. 28557

Patricia Smith  
Communications Director  
Division of Marine Fisheries/Division of Coastal Management  
252-808-8025 (Work)  
252-342-0642 (Mobile)  
[Tricia.Smith@ncdenr.gov](mailto:Tricia.Smith@ncdenr.gov)

<http://portal.ncdenr.org/web/mf/>  
<https://deq.nc.gov/about/divisions/coastal-management>

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*Kelly B. Odom*  
*Education Specialist*  
*N.C. Department of Environmental Quality*  
*Post Office Box 769*  
*Morehead City, NC 28557*  
[\*Kelly.Odom@ncdenr.gov\*](mailto:Kelly.Odom@ncdenr.gov)  
*252-808-8027*

---

DENR.DMF.NewsRelease mailing list  
[DENR.DMF.NewsRelease@lists.ncmail.net](mailto:DENR.DMF.NewsRelease@lists.ncmail.net)

**From:** [Blum, Catherine](#)  
**To:** [My Gmail](#)  
**Subject:** RE: [External] Tarpon rules  
**Date:** Wednesday, October 02, 2019 12:02:00 PM

---

Dear Mr. Mandulak,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
Fishery Management Plan and Rulemaking Coordinator  
Division of Marine Fisheries  
N.C. Department of Environmental Quality

252-808-8014 office  
252-726-0254 fax  
[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)

P.O. Box 769  
3441 Arendell Street  
Morehead City, NC 28557-0769



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---

**From:** My Gmail  
**Sent:** Tuesday, October 01, 2019 12:24 PM  
**To:** Blum, Catherine <catherine.blum@ncdenr.gov>  
**Subject:** [External] Tarpon rules

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Catherine, not that I have caught many tarpon so my experience is limited but it is useful to lip gaff tarpon. This facilitates controlling them to remove hooks and take a quick picture before release. I suggest you consider some verbiage to allow lip gaffing the tarpon as a "boga" type gripper is not terribly effective with these big fish. Landing nets just get torn up by large tarpon. Bill Mandulak

**From:** [Blum, Catherine](#)  
**To:** [Steve Bernardo](#)  
**Subject:** RE: [External] MFC accepting public comment on two proposed rule changes  
**Date:** Wednesday, October 02, 2019 12:08:00 PM

---

Dear Steve Bernardo,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

Catherine Blum  
Fishery Management Plan and Rulemaking Coordinator  
Division of Marine Fisheries  
N.C. Department of Environmental Quality

252-808-8014 office  
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Morehead City, NC 28557-0769

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-----Original Message-----

From: Steve Bernardo  
Sent: Tuesday, October 01, 2019 9:42 PM  
To: Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
Subject: [External] MFC accepting public comment on two proposed rule changes

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Re: Tarpon Regs

There is no need to change any Tarpon Regs since so few are killed. Most are caught and released. Tarpon are not endangered and only a select few people want a rules change.

I am a firm NO on changing any Tarpon laws

Best regards,  
Steve Bernardo

Sent from my iPad

**From:** [Blum, Catherine](#)  
**To:** "Riley Inman"  
**Subject:** RE: [External] Proposed amendment 15A NCAC 03M .0509 Regarding Tarpon  
**Date:** Thursday, October 03, 2019 11:41:00 AM

---

Dear Riley Inman,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
Fishery Management Plan and Rulemaking Coordinator  
Division of Marine Fisheries  
N.C. Department of Environmental Quality

252-808-8014 office  
252-726-0254 fax  
[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)

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3441 Arendell Street  
Morehead City, NC 28557-0769



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---

**From:** Riley Inman  
**Sent:** Thursday, October 03, 2019 11:18 AM  
**To:** Blum, Catherine <catherine.blum@ncdenr.gov>  
**Subject:** [External] Proposed amendment 15A NCAC 03M .0509 Regarding Tarpon

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Good Morning Catherine,

I hope you are well. I would like to express my concern about the proposed amendment listed below:

Amend 15A NCAC 03M .0509 to prohibit possession of tarpon and make it illegal to gaff, spear, or puncture tarpon by any method other than hook and line.

I have many concerns about this proposal and would like to share them with you:

1. This proposal is being presented not because of scientific data showing the population is in decline, but because a small, handful of charter captains feel tarpon should not be harvested. As they are entitled to their opinions, these opinions alone should not allow for an amendment to a current rule without peer reviewed scientific data stating that species is in decline.
2. Tarpon are considered a pelagic species that are thought to travel 1000's of miles. There is some data to support this out of Florida but there is very little recent data showing what the populations of tarpon in NC do during the winter.
3. If this amendment passes it will allow future amendments and rules to be put into place based on the feelings of folks rather than facts. I understand many people view tarpon as a game fish species that should be protected but again, that opinion should not determine whether or not a fish can be harvested.
4. The reason this concern was brought to the committee by these captains is they became aware of a few tarpon that were being harvested and used for land based shark fishing bait. Because they felt that the tarpon was more "valuable" than bait they felt people should not be able to keep them if they were using the fish in a way not deemed suitable by this small group of captains. We cannot allow a small group of captains to determine what bait recreational fisherman are allowed to use.
5. No one knows or can provide an answer in regard to how many tarpon are harvested annually in NC.
6. No one can provide an answer for what condition the pelagic stock of tarpon in NC are in.
7. No one can provide an answer in regards to the financial impact tarpon fishing has on the state of North Carolina.

Again, we cannot make rules and amendments to our state's fisheries based on the opinion of a select few. This opens Pandora's box to allow other species to be subject to similar rules based on the perceived value of a fish without any factual basis. I sincerely hope the committee will consider the impact this will have on future decisions.

--

Thank you for your time,

Riley.

**From:** [Blum, Catherine](#)  
**To:** [Jason Fowler](#)  
**Cc:** [Moore, Tina](#)  
**Subject:** RE: [External] Public Comment Opposing Amend 15A NCAC 03M .0509 (Tarpon)  
**Date:** Thursday, October 03, 2019 1:20:00 PM

---

Dear Jason Fowler,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
Fishery Management Plan and Rulemaking Coordinator  
Division of Marine Fisheries  
N.C. Department of Environmental Quality

252-808-8014 office  
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Morehead City, NC 28557-0769



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---

**From:** Jason Fowler  
**Sent:** Thursday, October 03, 2019 1:04 PM  
**To:** Blum, Catherine <catherine.blum@ncdenr.gov>  
**Cc:** Moore, Tina <tina.moore@ncdenr.gov>  
**Subject:** [External] Public Comment Opposing Amend 15A NCAC 03M .0509 (Tarpon)

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Good afternoon Catherine,  
I would like to express my concerns about the proposed amendment Amend 15A NCAC 03M .0509 to prohibit possession of tarpon and make it illegal to gaff, spear, or puncture tarpon by any method other than hook and line. Being a member of the [REDACTED]

[REDACTED], I understand the importance of protecting a vulnerable species of fish from being overfished or declining in population due to environmental factors but to place restrictions on harvest solely because of moral/personal beliefs in regards to that fishery is opening a Pandora's box method of fisheries management. Per the IUCN (International Union for Conservation of Nature) Red List of Threatened Species, there has been no formal stock assessment of Tarpon in any portion of the species' range so there is no scientific data to support closing this fishery to become catch and release only in our North Carolina waters.

This proposal was presented to the NC Division of Marine Fisheries not because of scientific data showing the population is in decline, but because a small, handful of charter captains feel that tarpon should not be harvested as they align their principles with the BTT (Bonefish and Tarpon Trust) of Florida. One of the main proponents of this amendment recently admitted on social media that "Two years ago when I saw photos of Tarpon being used as shark bait yes it irritated me." As they are entitled to their opinions, these opinions alone should not allow for an amendment to a current rule without peer reviewed scientific data stating that species is in decline. Tarpon are a nomadic pelagic species that are thought to travel 1000's of miles. There is little data showing what the populations of tarpon in North Carolina do during the winter months but it is believed that many continue their journey back down to warmer waters. If this amendment passes it will allow future amendments and rules to be put into place based on the morals and feelings of individuals/groups rather than facts. I understand many people view tarpon as a game fish species that should be protected but again, that opinion should not determine whether or not a fish can be harvested. By passing this amendment, North Carolina will become the only state in which a tarpon is not eligible for harvest from our waters to the waters of Texas. Below are the regulations for the other states in which tarpon is an active fishery:

South Carolina - 77" FL minimum size limit and daily bag limit is one per person per day

Georgia - 68" FL minimum size limit and daily bag limit is one per person per day

Florida - Catch and Release only fishery but one tarpon tag per person per year may be purchased when in pursuit of an IGFA record

Alabama - 60" TL minimum size limit, 1 fish possession requires tarpon tag

Mississippi - No regulations

Louisiana - No regulations

Texas - 85" TL minimum size limit, 1 per person per day and 2 possession limit

The reason this concern was brought to the Marine Fisheries



Commission by these captains is they became aware of a few tarpon that were being harvested and used for land based shark fishing bait. They felt that the tarpon was more "valuable" than bait and should not be able to keep them if they were using the fish in a way not deemed suitable by this small group of captains. We cannot allow a small group of anyone to determine what bait recreational fisherman are allowed to use without scientific data to back it up. No one knows or can provide an exact answer in regard to how many tarpon are harvested annually in NC but from my educated knowledge, it is under 20 total since 2016 when the first one was harvested for the use of shark bait and to my knowledge, 0 so far this season for that purpose. No one can provide an answer for what condition the pelagic stock of tarpon in NC are in nor can one provide an answer in regards to the financial impact tarpon fishing has on the state of North Carolina.

Closing the fishery will have an economic impact on one of the largest public accesses to the North Carolina Tarpon fishery, our ocean side fishing piers. Countless anglers flock to the coast and piers each summer for a chance to battle *Megalops atlanticus* in hopes of achieving the rewarding moment when you have won the battle and caught the fish. Many anglers do release the fish to receive a North Carolina Saltwater Tournament Citation while others harvest the fish to provide bait for the Land Based Shark Fishing community as the mortality of a released fish after a long arduous fight is a definite probability. Taking this option away, will cause many anglers to not want to spend the time and money on travelling to the coast to participate in a fishery that is solely catch and release and the most restrictive on the eastern and gulf seaboard.

Again, we cannot make rules and amendments to our state's fisheries based on the opinions of a select few without the necessary scientific data to support these actions. This will allow other species to be subject to similar rules based on the perceived value of a fish without any factual basis. I sincerely hope the committee will consider the impact this will have on future decisions and vote to NOT APPROVE the proposed amendment Amend 15A NCAC 03M .0509.

Thank you for your time and consideration in this matter,

Jason Fowler

[REDACTED]  
[REDACTED]

**From:** [Blum, Catherine](#)  
**To:** [P "PWaLL" Parks](#)  
**Subject:** RE: [External] Tarpon  
**Date:** Thursday, October 03, 2019 3:43:00 PM

---

Dear Paul Park,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. (You must be an acquaintance of someone who is a member of the [REDACTED] who submitted similar comments, as I do not see you on that roster.) Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

Catherine Blum  
Fishery Management Plan and Rulemaking Coordinator  
Division of Marine Fisheries  
N.C. Department of Environmental Quality

252-808-8014 office  
252-726-0254 fax  
[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)

P.O. Box 769  
3441 Arendell Street  
Morehead City, NC 28557-0769

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-----Original Message-----

From: P "PWaLL" Parks  
Sent: Thursday, October 03, 2019 1:43 PM  
To: Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
Subject: [External] Tarpon

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Good afternoon Catherine,

I would like to express my concerns about the proposed amendment Amend 15A NCAC 03M .0509 to prohibit possession of tarpon and make it illegal to gaff, spear, or puncture tarpon by any method other than hook and line. Being a member of the [REDACTED], I understand the importance of protecting a vulnerable species of fish from being overfished or declining in population due to environmental factors but to place restrictions on harvest solely because of moral/personal beliefs in regards to that fishery is opening a Pandora's box method of fisheries management. Per the IUCN (International Union for Conservation of Nature) Red List of Threatened Species, there has been no formal stock assessment of Tarpon in any portion of the species' range so there is no scientific data to support closing this fishery to become catch and release only in our North Carolina waters.

This proposal was presented to the NC Division of Marine Fisheries not because of scientific data showing the population is in decline, but because a small, handful of charter captains feel that tarpon should not be harvested as

they align their principles with the BTT (Bonefish and Tarpon Trust) of Florida. One of the main proponents of this amendment recently admitted on social media that "Two years ago when I saw photos of Tarpon being used as shark bait yes it irritated me." As they are entitled to their opinions, these opinions alone should not allow for an amendment to a current rule without peer reviewed scientific data stating that species is in decline. Tarpon are a nomadic pelagic species that are thought to travel 1000's of miles. There is little data showing what the populations of tarpon in North Carolina do during the winter months but it is believed that many continue their journey back down to warmer waters. If this amendment passes it will allow future amendments and rules to be put into place based on the morals and feelings of individuals/groups rather than facts. I understand many people view tarpon as a game fish species that should be protected but again, that opinion should not determine whether or not a fish can be harvested. By passing this amendment, North Carolina will become the only state in which a tarpon is not eligible for harvest from our waters to the waters of Texas.

Below are the regulations for the other states in which tarpon is an active fishery:

South Carolina - 77" FL minimum size limit and daily bag limit is one per person per day Georgia - 68" FL minimum size limit and daily bag limit is one per person per day Florida - Catch and Release only fishery but one tarpon tag per person per year may be purchased when in pursuit of an IGFA record Alabama - 60" TL minimum size limit, 1 fish possession requires tarpon tag Mississippi - No regulations Louisiana - No regulations Texas - 85" TL minimum size limit, 1 per person per day and 2 possession limit

The reason this concern was brought to the Marine Fisheries Commission by these captains is they became aware of a few tarpon that were being harvested and used for land based shark fishing bait. They felt that the tarpon was more "valuable" than bait and should not be able to keep them if they were using the fish in a way not deemed suitable by this small group of captains. We cannot allow a small group of anyone to determine what bait recreational fisherman are allowed to use without scientific data to back it up. No one knows or can provide an exact answer in regard to how many tarpon are harvested annually in NC but from my educated knowledge, it is under 20 total since 2016 when the first one was harvested for the use of shark bait and to my knowledge, 0 so far this season for that purpose. No one can provide an answer for what condition the pelagic stock of tarpon in NC are in nor can one provide an answer in regards to the financial impact tarpon fishing has on the state of North Carolina.

Closing the fishery will have an economic impact on one of the largest public accesses to the North Carolina Tarpon fishery, our ocean side fishing piers. Countless anglers flock to the coast and piers each summer for a chance to battle *Megalops atlanticus* in hopes of achieving the rewarding moment when you have won the battle and caught the fish. Many anglers do release the fish to receive a North Carolina Saltwater Tournament Citation while others harvest the fish to provide bait for the Land Based Shark Fishing community as the mortality of a released fish after a long arduous fight is a definite probability. Taking this option away, will cause many anglers to not want to spend the time and money on travelling to the coast to participate in a fishery that is solely catch and release and the most restrictive on the eastern and gulf seaboard.

Again, we cannot make rules and amendments to our state's fisheries based on the opinions of a select few without the necessary scientific data to support these actions. This will allow other species to be subject to similar rules based on the perceived value of a fish without any factual basis. I sincerely hope the committee will consider the impact this will have on future decisions and vote to NOT APPROVE the proposed amendment Amend 15A NCAC 03M .0509.

Thank you for your time and consideration in this matter,

Paul Park

**From:** [Blum, Catherine](#)  
**To:** [Eric Bregman](#)  
**Subject:** RE: [External] Proposed amendment 15A NCAC 03M .0509 Regarding Tarpon  
**Date:** Thursday, October 03, 2019 3:43:00 PM

---

Dear Eric Bregman,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
Fishery Management Plan and Rulemaking Coordinator  
Division of Marine Fisheries  
N.C. Department of Environmental Quality

252-808-8014 office  
252-726-0254 fax  
[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)

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---

**From:** Eric Bregman  
**Sent:** Thursday, October 03, 2019 2:41 PM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** [External] Proposed amendment 15A NCAC 03M .0509 Regarding Tarpon

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Catherine,

I hope you are well. I would like to express my concern about the proposed amendment listed below:

Amend 15A NCAC 03M .0509 to prohibit possession of tarpon and make it illegal to gaff, spear, or puncture tarpon by any method other than hook and line.

I have many concerns about this proposal and would like to share them with you:

1. This proposal is being presented not because of scientific data showing the population is in decline, but because a small, handful of charter captains feel tarpon should not be harvested. As they are entitled to their opinions, these opinions alone should not allow for an amendment to a current rule without peer reviewed scientific data stating that species is in decline. While I understand that a stock assessment would not be necessary for a species with no commercial value, no data is still no data.
2. Tarpon are considered a pelagic species that are thought to travel 1000's of miles. There is some data to support this out of Florida but there is very little recent data showing what the populations of tarpon in NC do during the winter and and if our population is even in the same biomass as the Florida fish. We dont even know the number harvested this year or the last 2-3 years.
3. If this amendment passes it will allow future amendments and rules to be put into place based on the feelings of folks rather than facts. I understand many people view tarpon as a game fish species that should be protected, which is a very valid argument, but again, that opinion should not determine whether or not a fish can be harvested. Furthermore, I personally would never harvest a tarpon and probably would never take one out of the water...but that should have no bearing on rule making.
4. The reason this concern was brought to the committee by these captains is they became aware of a few tarpon that were being harvested and used for land based shark fishing bait. Because they felt that the tarpon was more"valuable" than bait they felt people should not be able to keep them if they were using the fish in a way not deemed suitable by this small group of captains. We cannot allow a small group of captains to determine what bait recreational fisherman are allowed to use.
5. No one can provide an answer in regards to the financial impact tarpon fishing has on the state of North Carolina.
6. If the population of Tarpon is such a huge risk why is Florida the only state between here and Texas that doesnt allow harvest of tarpon? If the population was in dire condition

Unfortunately, based on the decision last meeting to deny the petition for rule making regarding trawlers with ample scientific data to support the petition, my expectation as to whether science (or lack there of) will be taken into consideration when making this decision is low at best

Again, we cannot make rules and amendments to our state's fisheries based on the opinion of a select few. This opens Pandora's box to allow other species to be subject to similar rules based on the perceived value of a fish without any factual basis. I sincerely hope the committee will consider the impact this will have on future decisions.

--

Eric D, Bregman, CPA

[Redacted signature block]

**From:** [Blum, Catherine](#)  
**To:** [Eric Fowler](#)  
**Subject:** RE: [External] Public Comment on Tarpon Rule Change  
**Date:** Thursday, October 03, 2019 3:44:00 PM

---

Dear Eric Fowler,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
Fishery Management Plan and Rulemaking Coordinator  
Division of Marine Fisheries  
N.C. Department of Environmental Quality

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---

**From:** Eric Fowler  
**Sent:** Thursday, October 03, 2019 3:13 PM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** [External] Public Comment on Tarpon Rule Change

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Ms. Blum,

I am an avid outdoors man and like to call North Carolina my home. I love being able to go to my local fishing pier and attempt to catch a tarpon every summer as it is one of the best fights that I can obtain from the pier. Many times, we release the fish that we catch but on occasion, we harvest them to provide bait for our local sharking fishermen as they are targeting large apex predators and tagging them for NOAA.

I have looked at the proposed amendment change and strongly oppose making our tarpon fishery a

catch and release only fishery. The population is definitely not hurting as we see thousands of tarpon swimming and rolling every summer from the pier. These are just the fish that we do see, imagine the ones that are out of our view from the pier.

I also understand that this proposed rule change is coming about because of several guides in the Wilmington area that got upset when they saw that tarpon was being used at cut bait. While everyone might not agree that tarpon should be used for this purpose, it is legal and should not result in a shut down of a booming fishery. A lot of these fish, if released, would succumb to the rigors of being caught and die. In order to make a change, you need to show scientific data to support their claims that the fish population is declining. This cannot be done as there has not been any stock assessment performed on tarpon.

In conclusion, I DO NOT support the proposed tarpon amendment and would like to see North Carolina still have the option to harvest a tarpon if the angler so desires.

Regards,

Eric Fowler

**From:** [Blum, Catherine](#)  
**To:** [kevin brown](#)  
**Subject:** RE: [External] Tarpon protection  
**Date:** Wednesday, October 16, 2019 11:06:00 AM

---

Dear Kevin Brown,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
Fishery Management Plan and Rulemaking Coordinator  
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**From:** kevin brown  
**Sent:** Wednesday, October 16, 2019 9:29 AM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** [External] Tarpon protection

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I support Amendment 15A NCAC 03M.0509 to prohibit possession of tarpon and make it illegal to gaff, spear or puncture tarpon by any method other than hook and line. We need to do more to protect this specie so we can insure they are around for future generations.

Thanks for your attention to this matter.



Kevin Brown



[Sent from Yahoo Mail for iPhone](#)

**From:** [Blum, Catherine](#)  
**To:** [Bill Lunsford](#)  
**Subject:** RE: [External] Amendment 15A NCAC 03M.0509  
**Date:** Wednesday, October 16, 2019 11:07:00 AM

---

Dear Bill Lunsford,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

Catherine Blum  
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-----Original Message-----

From: Bill Lunsford  
Sent: Wednesday, October 16, 2019 9:39 AM  
To: Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
Subject: [External] Amendment 15A NCAC 03M.0509

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I support Amendment 15A NCAC 03M.0509. Tarpon, if protected, have the potential to drive significant economic benefit to NC if the population is protected and their numbers grow. For sports fisherman that enjoy fishing within sight of the coast, tarpon represent the very top of the pyramid when it comes to difficulty to catch, good chaos when on the line, and a very unique fishing experience. This is true whether fishing with live bait, artificial or fly. The potential for guides to build their book of business and grow the market is significant. The species has no material negative impact to NC, and represents something that should be protected for future generations. I strongly am in favor of passing this Amendment.

Bill Lunsford

Bill Lunsford

Phone: 

**From:** [Blum, Catherine](#)  
**To:** [Brian Blackman](#)  
**Subject:** RE: [External] Amendment 15A NCAC 03M.0509  
**Date:** Wednesday, October 16, 2019 11:08:00 AM

---

Dear Brian Blackman,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
Fishery Management Plan and Rulemaking Coordinator  
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---

**From:** Brian Blackman  
**Sent:** Wednesday, October 16, 2019 9:46 AM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** [External] Amendment 15A NCAC 03M.0509

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Dear Catherine,

Please know that I support Amendment 15A NCAC 03M.0509 and as an avid marine outdoorsman see firsthand the devastating impacts of unsustainable fishing practices. Tarpon are one of many species that are indiscriminately destroyed by gill nets and poor fishing practices.

I advocate the prohibition to possess Tarpon and would like to see it made illegal to gaff, spear or puncture tarpon by any method other than hook and line. I also advocate education for recreational fishing

to ensure that those who pursue tarpon as a catch and release game fish know how to properly handle and revive this amazing, prehistoric species.

Thank you for your work and efforts to protect our marine fisheries.

Best

Brian Blackman



**From:** [Blum, Catherine](#)  
**To:** [REDACTED] David Democko  
**Subject:** RE: [External] I support Amendment 15A NCAC 03M.0509  
**Date:** Wednesday, October 16, 2019 11:09:00 AM

---

Dear David Democko,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
Fishery Management Plan and Rulemaking Coordinator  
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---

**From:** [REDACTED] David Democko  
**Sent:** Wednesday, October 16, 2019 9:47 AM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** [External] I support Amendment 15A NCAC 03M.0509

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- I support Amendment 15A NCAC 03M.0509 to prohibit possession of tarpon and make it illegal to gaff, spear or puncture tarpon by any method other than hook and line.
- Atlantic tarpon have been classified as "vulnerable" across the extent of their range by the International Union for the Conservation of Nature; the tarpon population has declined due to over-harvest in some locations, loss of habitat, and detrimental fish handling practices.
- Tarpon in North Carolina waters are part of a larger, regional fishery; the harvest of tarpon impacts the recreational fishery locally and regionally.
- Practices such as lip gaffing and other puncture methods negatively effect tarpon feeding and

increases catch-and-release mortality.

- Tarpon support a valuable recreational fishery having annual economic impacts counted in the millions of dollars in some other states.
- Given the potential growth of the recreational tarpon fishery locally, these proactive measures to both reduce harvest and harm to the fish will help conserve the species and benefit the State of North Carolina.

David Democko

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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**From:** [Blum, Catherine](#)  
**To:** [Lorian Schweikert](#)  
**Subject:** RE: [External] Letter to Ms. Catherine Blum - support for Amendment 15A NCAC 03M.0509  
**Date:** Wednesday, October 16, 2019 11:09:00 AM

---

Dear Lorian Schweikert,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
Fishery Management Plan and Rulemaking Coordinator  
Division of Marine Fisheries  
N.C. Department of Environmental Quality

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3441 Arendell Street  
Morehead City, NC 28557-0769



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**From:** Lorian Schweikert  
**Sent:** Wednesday, October 16, 2019 9:48 AM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** [External] Letter to Ms. Catherine Blum - support for Amendment 15A NCAC 03M.0509

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Dear Ms. Catherine Blum,

Please see the attached letter. I have also copied the contents of the letter here. Thank you for your consideration.

Dear Ms. Catherine Plum and members of the hearing committee:

I am writing to show my support for Amendment 15A NCAC 03M.0509 to prohibit

possession of tarpon and make it illegal to gaff, spear or puncture tarpon by any method other than hook and line.

Atlantic tarpon have been classified as "vulnerable" across the extent of their range by the International Union for the Conservation of Nature; the tarpon population has declined due to over-harvest in some locations, loss of habitat, and detrimental fish handling practices. Tarpon in North Carolina waters are part of a larger, regional fishery; the harvest of tarpon impacts the recreational fishery locally and regionally across the southeastern United States. Practices such as lip gaffing and other puncture methods negatively effect tarpon feeding and increases catch-and-release mortality. Tarpon support a valuable recreational fishery having annual economic impacts counted in the millions of dollars in some other states. Given the potential growth of the recreational tarpon fishery locally, these proactive measures to both reduce harvest and harm to the fish will help conserve the species and benefit the State of North Carolina.

I am a marine biologist who has studied marine fish sensory systems and sensory-guided for the nearly ten years. My doctoral dissertation was completed on the visual ability and life history of the Atlantic tarpon. I have been a resident of North Carolina State, employed by [REDACTED], and I am currently a Distinguished Postdoctoral Fellow at [REDACTED] University. The management of tarpon in North Carolina is falling behind the proactive measures being taken by other states to protect this economically valuable species, such as Florida. I fully support Amendment 15A NCAC 03M.0509.

Sincerely,  
Lorian Schweikert

--

Lorian E. Schweikert, Ph.D.  
Postdoctoral Fellow

[REDACTED] University  
Depart. of Biological Sciences

[REDACTED]  
lab: [REDACTED]

office: [REDACTED]



**From:** [Blum, Catherine](#)  
**To:** [Mann, George T.](#)  
**Subject:** RE: [External] NC Tarpon Regulations Amendment  
**Date:** Wednesday, October 16, 2019 11:10:00 AM

---

Dear George Mann,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
Fishery Management Plan and Rulemaking Coordinator  
Division of Marine Fisheries  
N.C. Department of Environmental Quality

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**From:** Mann, George T.  
**Sent:** Wednesday, October 16, 2019 10:08 AM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** [External] NC Tarpon Regulations Amendment

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- I support Amendment 15A NCAC 03M.0509 to prohibit possession of tarpon and make it illegal to gaff, spear or puncture tarpon by any method other than hook and line.
- Atlantic tarpon have been classified as "vulnerable" across the extent of their range by the International Union for the Conservation of Nature; the tarpon population has declined due to over-harvest in some locations, loss of habitat, and detrimental fish handling practices.
- Tarpon in North Carolina waters are part of a larger, regional fishery; the harvest of tarpon impacts the recreational fishery locally and regionally.
- Practices such as lip gaffing and other puncture methods negatively affect tarpon feeding and increases catch-and-release mortality.
- Tarpon support a valuable recreational fishery having annual economic impacts counted in the millions of dollars in some other states.
- Given the potential growth of the recreational tarpon fishery locally, these proactive measures to both reduce harvest and harm to the fish will help conserve the species and benefit the State of North Carolina.

George T. ("Ted") Mann  
[REDACTED]  
[REDACTED] | [REDACTED]



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**From:** [Blum, Catherine](#)  
**To:** [Charles Aikens](#)  
**Subject:** RE: [External] Amendment to its existing tarpon regulation 15A NCAC 03M.0509.  
**Date:** Wednesday, October 16, 2019 11:11:00 AM

---

Dear Chuck Aikens,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
Fishery Management Plan and Rulemaking Coordinator  
Division of Marine Fisheries  
N.C. Department of Environmental Quality

252-808-8014 office  
252-726-0254 fax  
[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)

P.O. Box 769  
3441 Arendell Street  
Morehead City, NC 28557-0769



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---

**From:** Charles Aikens  
**Sent:** Wednesday, October 16, 2019 10:11 AM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** [External] Amendment to its existing tarpon regulation 15A NCAC 03M.0509.

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Hi Catherine,

I am taking a minute to write to in regard to the current regulations on *Megalops atlanticus* (Tarpon). As a member of Bonefish Tarpon Trust, BTT, As you know, Tarpon visit the NC coast and for the most part are just passing through following the Atlantic thermocline up to the Chesapeake bay.

Over the years, specifically in Florida, strict regulations have been adopted along with proper handling of these magnificent fish for a safe release. It is important that we join Florida and other states along the South Eastern seaboard to protect this species on their journey.

As a guide in North Carolina, who is developing this fishery in Coastal rivers and estuaries, I support this amendment to protect these fish and to reduce their mortality rate and to install a catch and release mentality, including not removing them from the water. Every year these fish are caught on the piers along our coast and needlessly killed.

Please let me know if I can help in any way.

Below are some key points as they relate to current regulations:

- Atlantic tarpon have been classified as "vulnerable" across the extent of their range by the International Union for the Conservation of Nature; the tarpon population has declined due to over-harvest in some locations, loss of habitat, and detrimental fish handling practices.
- Tarpon in North Carolina waters are part of a larger, regional fishery; the harvest of tarpon impacts the recreational fishery locally and regionally.
- Practices such as lip gaffing and other puncture methods negatively effect tarpon feeding and increases catch-and-release mortality.
- Tarpon support a valuable recreational fishery having annual economic impacts counted in the millions of dollars in some other states.
- Given the potential growth of the recreational tarpon fishery locally, these proactive measures to both reduce harvest and harm to the fish will help conserve the species and benefit the State of North Carolina.

Best,

Chuck Aikens

**From:** [Blum, Catherine](#)  
**To:** [Jim Morgan](#)  
**Subject:** RE: [External] Tarpon Amendment  
**Date:** Wednesday, October 16, 2019 11:11:00 AM

---

Dear Jim Morgan,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

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Morehead City, NC 28557-0769



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**From:** Jim Morgan  
**Sent:** Wednesday, October 16, 2019 10:16 AM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** [External] Tarpon Amendment

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Cathy,

A few thoughts on the proposed amendment:

- I support Amendment 15A NCAC 03M.0509 to prohibit possession of tarpon and make it illegal to gaff, spear or puncture tarpon by any method other than hook and line.
- Atlantic tarpon have been classified as "vulnerable" across the extent of their range by the International Union for the Conservation of Nature; the tarpon population has declined due to over-harvest in some locations, loss of habitat, and detrimental fish handling practices.

- Tarpon in North Carolina waters are part of a larger, regional fishery; the harvest of tarpon impacts the recreational fishery locally and regionally.
- Practices such as lip gaffing and other puncture methods negatively effect tarpon feeding and increases catch-and-release mortality.
- Tarpon support a valuable recreational fishery having annual economic impacts counted in the millions of dollars in some other states.
- Given the potential growth of the recreational tarpon fishery locally, these proactive measures to both reduce harvest and harm to the fish will help conserve the species and benefit the State of North Carolina.

Thank you,  
Jim Morgan

**From:** [Blum, Catherine](#)  
**To:** [Tom Hollinshed](#)  
**Subject:** RE: [External] TARPON!!  
**Date:** Wednesday, October 16, 2019 11:12:00 AM

---

Dear Tom Hollinshed,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
Fishery Management Plan and Rulemaking Coordinator  
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Morehead City, NC 28557-0769



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---

**From:** Tom Hollinshed  
**Sent:** Wednesday, October 16, 2019 11:09 AM  
**To:** Catherine.Blum@ncdenr.gov.  
**Cc:** 'John Guggenheimer' [REDACTED]; Jay Cole [REDACTED]; Grant Singleton [REDACTED]  
**Subject:** [External] TARPON!!

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Catherine, I just got word that there was a move afoot to amend the existing Tarpon regulation 15A NCAC 03M.0509. I had no idea anyone, educated or not would consider killing a Tarpon. It's not like you could eat it? If there is not a prohibition on Killing or mishandling, during release of a Tarpon, such as lip gaffing or removing the fish from the water there should be. Research is now showing a possible year round resident population as close as South Carolina. Between our Pamlico sound, its

rivers and two capes and another Cape with it's river North Carolina has an amazing Tarpon habitat and recreational opportunity I and many others enjoy. I hope most recreational fisherman are receiving information either from DMF, NCWRC, CCA and The Bonefish Tarpon Trust on the proper way to catch, handle and release these amazing fish. Thank you for your effort and support of this amendment and all the work you do in support of our states coastal resources! Please let me know if some how I can help this get approved.

Tom Hollinshed

[REDACTED]

[REDACTED]

[REDACTED]



**From:** [Blum, Catherine](#)  
**To:** [Stephens, Louis](#)  
**Subject:** RE: [External] Carolina Tarpon support  
**Date:** Thursday, October 17, 2019 7:25:00 AM

---

Dear Louis Stephens,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
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**From:** Stephens, Louis  
**Sent:** Wednesday, October 16, 2019 11:35 AM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** [External] Carolina Tarpon support

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- I support Amendment 15A NCAC 03M.0509 to prohibit possession of tarpon and make it illegal to gaff, spear or puncture tarpon by any method other than hook and line.
- Atlantic tarpon have been classified as "vulnerable" across the extent of their range by the International Union for the Conservation of Nature; the tarpon population has declined due to over-harvest in some locations, loss of habitat, and detrimental fish handling practices.
- Tarpon in North Carolina waters are part of a larger, regional fishery; the harvest

- of tarpon impacts the recreational fishery locally and regionally.
- Practices such as lip gaffing and other puncture methods negatively effect tarpon feeding and increases catch-and-release mortality.
  - Tarpon support a valuable recreational fishery having annual economic impacts counted in the millions of dollars in some other states.
  - Given the potential growth of the recreational tarpon fishery locally, these proactive measures to both reduce harvest and harm to the fish will help conserve the species and benefit the State of North Carolina

Louis Stephens, CCIM, SIOR  
Managing Director



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**From:** [Blum, Catherine](#)  
**To:** [Kimberly B Walker](#)  
**Subject:** RE: [External] Proposed Amendment to North Carolina Tarpon Regulation  
**Date:** Thursday, October 17, 2019 7:26:00 AM

---

Dear Kim Walker,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
Fishery Management Plan and Rulemaking Coordinator  
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---

**From:** Kimberly B Walker  
**Sent:** Wednesday, October 16, 2019 11:51 AM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** [External] Proposed Amendment to North Carolina Tarpon Regulation  
**Importance:** High

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I support Amendment 15A NCAC 03M.0509 to prohibit possession of tarpon and make it illegal to gaff, spear or puncture tarpon by any method other than hook and line.

Atlantic tarpon have been classified as "vulnerable" across the extent of their range by the International Union for the Conservation of Nature; the tarpon population has declined due to over-harvest in some locations, loss of habitat, and detrimental fish handling practices.

Tarpon in North Carolina waters are part of a larger, regional fishery; the harvest of tarpon

impacts the recreational fishery locally and regionally.

Practices such as lip gaffing and other puncture methods negatively effect tarpon feeding and increases catch-and-release mortality.

Tarpon support a valuable recreational fishery having annual economic impacts counted in the millions of dollars in some other states.

Given the potential growth of the recreational tarpon fishery locally, these proactive measures to both reduce harvest and harm to the fish will help conserve the species and benefit the State of North Carolina. FL has a multi-million dollar Tarpon fishery, when the fish are protected there and allowed to be harvested in areas where they migrate, it defeats the whole purpose.

Thank you in advance for your consideration,

*Kim Walker, Licensed Staff Agent & Office Manager*

[Redacted signature block]

**From:** [Blum, Catherine](#)  
**To:** [Ted DuBose](#)  
**Subject:** RE: [External] Tarpon  
**Date:** Thursday, October 17, 2019 7:27:00 AM

---

Dear Ted DuBose,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

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-----Original Message-----

From: Ted DuBose  
Sent: Wednesday, October 16, 2019 11:56 AM  
To: Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
Subject: [External] Tarpon

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I want to let you know I fully support the new law on Tarpon handling. I've fished for tarpon for over forty years. There is absolutely no reason to kill a tarpon or handle it in any way that would jeopardize its survival. Thank you for doing what is necessary to bring this to law.

Sent from my iPhone

**From:** [Blum, Catherine](#)  
**To:** [Frank Armstrong](#)  
**Subject:** RE: [External] Amendment 15A NCAC 03M.0509  
**Date:** Thursday, October 17, 2019 7:27:00 AM

---

Dear Frank Armstrong,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**

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**From:** Frank Armstrong  
**Sent:** Wednesday, October 16, 2019 1:53 PM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** [External] Amendment 15A NCAC 03M.0509

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- I support Amendment 15A NCAC 03M.0509 to prohibit possession of tarpon and make it illegal to gaff, spear or puncture tarpon by any method other than hook and line.
- Atlantic tarpon have been classified as "vulnerable" across the extent of their range by the International Union for the Conservation of Nature; the tarpon population has declined due to over-harvest in some locations, loss of habitat, and detrimental fish handling practices.
- Tarpon in North Carolina waters are part of a larger, regional fishery; the harvest of tarpon impacts the recreational fishery locally and regionally.
- Practices such as lip gaffing and other puncture methods negatively effect tarpon feeding and increases catch-and-release mortality.

- Tarpon support a valuable recreational fishery having annual economic impacts counted in the millions of dollars in some other states.
- Given the potential growth of the recreational tarpon fishery locally, these proactive measures to both reduce harvest and harm to the fish will help conserve the species and benefit the State of North Carolina.

Thank-you for working to protect the Tarpon fishery in North Carolina.

Frank Armstrong



**From:** [Blum, Catherine](#)  
**To:** [Ron Shealy](#)  
**Subject:** RE: [External] Tarpon Amendment  
**Date:** Thursday, October 17, 2019 7:27:00 AM

---

Dear Ron Shealy,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

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**From:** Ron Shealy  
**Sent:** Wednesday, October 16, 2019 3:18 PM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** [External] Tarpon Amendment

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- I support Amendment 15A NCAC 03M.0509 to prohibit possession of tarpon and make it illegal to gaff, spear or puncture tarpon by any method other than hook and line.
- Atlantic tarpon have been classified as "vulnerable" across the extent of their range by the International Union for the Conservation of Nature; the tarpon population has declined due to over-harvest in some locations, loss of habitat, and detrimental fish handling practices.
- Tarpon in North Carolina waters are part of a larger, regional fishery; the harvest of tarpon impacts the recreational fishery locally and regionally.
- Practices such as lip gaffing and other puncture methods negatively effect tarpon feeding and



increases catch-and-release mortality.

- Tarpon support a valuable recreational fishery having annual economic impacts counted in the millions of dollars in some other states.
- Given the potential growth of the recreational tarpon fishery locally, these proactive measures to both reduce harvest and harm to the fish will help conserve the species and benefit the State of North Carolina.

Ronald B Shealy MD

██████████, NC

Sent from [Mail](#) for Windows 10

**From:** [Blum, Catherine](#)  
**To:** [jay murphy](#)  
**Subject:** RE: [External] Tarpon regulations  
**Date:** Thursday, October 17, 2019 3:26:00 PM

---

Dear Jay Murphy,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

Catherine Blum  
Fishery Management Plan and Rulemaking Coordinator  
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-----Original Message-----

From: jay murphy  
Sent: Thursday, October 17, 2019 8:56 AM  
To: Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
Subject: [External] Tarpon regulations

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As a lifetime North Carolinian (with a lifetime Coastal rec license) I want to fully support support Amendment 15A NCAC 03M.0509 Thank you!

Jay Murphy  


**From:** [Blum, Catherine](#)  
**To:** [Dan Litaker](#)  
**Subject:** RE: [External] NC Tarpon Regulations  
**Date:** Thursday, October 17, 2019 3:27:00 PM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)

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Dear Dan Litaker,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

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**From:** Dan Litaker  
**Sent:** Thursday, October 17, 2019 10:02 AM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** [External] NC Tarpon Regulations

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Catherine,

As a lifelong NC resident, I fully support the amendment to our current tarpon regulation and agree with all the points made below.

- I support Amendment 15A NCAC 03M.0509 to prohibit possession of tarpon and make it illegal to

- gaff, spear or puncture tarpon by any method other than hook and line.
- Atlantic tarpon have been classified as "vulnerable" across the extent of their range by the International Union for the Conservation of Nature; the tarpon population has declined due to over-harvest in some locations, loss of habitat, and detrimental fish handling practices.
  - Tarpon in North Carolina waters are part of a larger, regional fishery; the harvest of tarpon impacts the recreational fishery locally and regionally.
  - Practices such as lip gaffing and other puncture methods negatively effect tarpon feeding and increases catch-and-release mortality.
  - Tarpon support a valuable recreational fishery having annual economic impacts counted in the millions of dollars in some other states.
  - Given the potential growth of the recreational tarpon fishery locally, these proactive measures to both reduce harvest and harm to the fish will help conserve the species and benefit the State of North Carolina.

Thank you,

**Dan M. Litaker III - Managing Partner / CEO**

[Redacted]

[Redacted]

**Free:** [Redacted] | **Office:** [Redacted] | **Fax:** [Redacted]

**Mailing:** [Redacted]

**Physical:** [Redacted] | [Redacted] | [Redacted]

 [Redacted]

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**From:** [Blum, Catherine](#)  
**To:** [Robert Barnes](#)  
**Subject:** RE: [External] Amendment to 15A NCAC 03M.0509  
**Date:** Thursday, October 17, 2019 3:28:00 PM

---

Dear Robert Barnes,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
Fishery Management Plan and Rulemaking Coordinator  
Division of Marine Fisheries  
N.C. Department of Environmental Quality

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252-726-0254 fax  
[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)

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**From:** Robert Barnes  
**Sent:** Thursday, October 17, 2019 10:05 AM  
**To:** Blum, Catherine <catherine.blum@ncdenr.gov>; Whit Barnes [REDACTED]  
**Subject:** [External] Amendment to 15A NCAC 03M.0509

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Hi Catherine,

Hope you are well. I am writing to you to voice my support of the Amendment to 15A NCAC 03M.0509 to prohibit possession of tarpon and make it illegal to gaff, spear or puncture tarpon by any method other than hook and line.

As a [REDACTED] local, you see the same shrimp boats pass down the Bogue in the intercoastal that I see from our house on [REDACTED]. I have a sympathy for local, sustainable, commercial fishing practices, and I believe that this amendment could create a fishery that can be fiscally beneficial to the people of Eastern NC while not taking away from commercial fishing practices embedded in the history of the area.

It is easy to see how much more a fish like a tarpon is worth in the water than on land to the community locals when you visit areas where Amendments, like the one being proposed in NC, already exist. A healthy tarpon fishery could add to the growth that Morehead City is already seeing in its inshore and offshore sport fishing industry.

Many thanks to you and the Marine Fisheries Commission for all that you do.

Best,

Robert Barnes  
[REDACTED]  
[REDACTED]

understand the

As the Bahamian locals like to say, "a bonefish is worth more in the water than it is on land." I believe that this too can be the case for Tarpon in the Carolinas.

**From:** [Blum, Catherine](#)  
**To:** [Josh Idol](#)  
**Subject:** RE: [External] Public Comment Re: 15A NCAC 03M.0509  
**Date:** Wednesday, October 23, 2019 11:45:00 AM

---

Dear Josh Idol,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

Catherine Blum  
Fishery Management Plan and Rulemaking Coordinator  
Division of Marine Fisheries  
N.C. Department of Environmental Quality

252-808-8014 office  
252-726-0254 fax  
[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)

P.O. Box 769  
3441 Arendell Street  
Morehead City, NC 28557-0769

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-----Original Message-----

From: Josh Idol  
Sent: Thursday, October 17, 2019 8:09 PM  
To: Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
Subject: [External] Public Comment Re: 15A NCAC 03M.0509

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Hi Catherine,

I wanted to reach out to you and the rest of the Marine Fisheries Commission about the proposed changes to 15A NCAC 03M.0509. As a life long recreational angler in North Carolina and someone who fishes for tarpon all across the southeast every year, these issues are important to me. I believe the proposed changes would be a step in the right direction for fisheries management in North Carolina.

The results of recent satellite tagging studies show that the tarpon fishery in NC is a part of a larger fishery that includes much of the gulf coast and the south east Atlantic coast. What we do here effects residents and tarpon fishermen from Texas to Virginia and I think we have a responsibility to do our part in protecting these amazing fish from harmful practices.

Tarpon are not a table fish of choice for most anglers outside of Central America and there's no good reason beyond fishermen's egos to kill, lip gaff, or even remove an adult tarpon from the water. As you know, our state does not have a juvenile tarpon fishery, all of our tarpon are mature fish and the methods I mentioned have a negative effect on mortality after release (for the fish that are released).

As some one who spends a good deal of time and money pursuing these fish outside of our state, I think there's an opportunity here to protect and promote a trophy fishery that could be a boon to local economies in eastern NC and set an example for the importance of responsible management for our other gamefish species.

Thank you for taking the time to read my note and I hope you'll consider supporting the proposed changes to 15A NCAC 03M.0509.

Thank you,

Josh Idol





**From:** [Blum, Catherine](#)  
**To:** [Al Goodrich](#)  
**Subject:** RE: [External] Regulation 15A NCAC 03M.0509 (Tarpon)  
**Date:** Wednesday, October 23, 2019 12:02:00 PM

---

Dear Al Goodrich,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
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**From:** Al Goodrich  
**Sent:** Friday, October 18, 2019 10:05 AM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** [External] Regulation 15A NCAC 03M.0509 (Tarpon)

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Dear Ms. Blum,

I support the aforementioned amendment to prohibit possession of Atlantic Tarpon. It has come to my attention that they have been classified as vulnerable and wish our State to do its part in protecting this magnificent species. Furthermore I believe it to be wise to prohibit puncturing the fish in anyway that would cause it harm or prohibit its natural ability to feed in our waters. Hopefully these measures will allow our fishery to continue to provide a thriving habitat for future generations.

Sincerely,

Al Goodrich

[REDACTED]

**From:** [Blum, Catherine](#)  
**To:** [Kevin Stewart](#)  
**Subject:** RE: [External] 15A NCAC 03M.0509  
**Date:** Wednesday, October 23, 2019 12:06:00 PM

---

Dear Kevin Stewart,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
Fishery Management Plan and Rulemaking Coordinator  
Division of Marine Fisheries  
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P.O. Box 769  
3441 Arendell Street  
Morehead City, NC 28557-0769



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---

**From:** Kevin Stewart  
**Sent:** Saturday, October 19, 2019 11:44 AM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** [External] 15A NCAC 03M.0509

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Dear Ms. Blum,

I am writing in support of the proposed amendment to 15A NCAC 03M.0509 which would prohibit the possession of a Tarpon and make it illegal to gaff, spear or puncture a Tarpon by any means other than a hook and line. In addition, I would encourage the Commission to go one step further and consider adopting regulations which would prohibit removing a Tarpon from the water before it is released.

Why is protecting Tarpon important? Tarpon are a migratory game fish and are typically not caught for consumption. As such, it is important to ensure the survival of a caught Tarpon by requiring (and practicing) proper catch and release techniques. Gaffing or dragging a Tarpon out of the water for a picture often results in the subsequent death of the fish. Other states have adopted similar measures which have greatly enhanced their Tarpon fisheries and related business. There is no reason for North Carolina to not do the same thing.

With a wide variety of species and abundant numbers of fish, North Carolina has a well deserved reputation for being one of the best, if not the best, places to fish. Protecting Tarpon by adopting the proposed amendment is consistent with other actions taken by the Commission to promote North Carolina's fisheries.

Respectfully,

Kevin Stewart  
714 Cannonsgate Drive  
Newport, NC 28570

Sent from [Mail](#) for Windows 10

**From:** [Blum, Catherine](#)  
**To:** [Jim Eatman](#)  
**Subject:** RE: [External] Amendment 15A NCAC 03M.0509  
**Date:** Thursday, October 24, 2019 10:23:00 AM

---

Dear Jim Eatman,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
Fishery Management Plan and Rulemaking Coordinator  
Division of Marine Fisheries  
N.C. Department of Environmental Quality

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P.O. Box 769  
3441 Arendell Street  
Morehead City, NC 28557-0769



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**From:** Jim Eatman  
**Sent:** Wednesday, October 23, 2019 4:30 PM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** [External] Amendment 15A NCAC 03M.0509

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Ms. Blum,

My name is Jim Eatman and I am writing to you to express my support for Amendment 15A NCAC 03M.0509. I have attached a formal letter which outlines in greater detail the importance of this Amendment and why I adamantly support it. Thank you for your consideration and please feel free to contact me with any questions.

Best,  
Jim

James A. Eatman

[REDACTED]  
[REDACTED]  
[REDACTED]

October 23, 2019

Via Electronic Mail

Ms. Catherine Blum  
Marine Fisheries Commission  
Catherine.Blum@ncdenr.gov

Dear Ms. Blum,

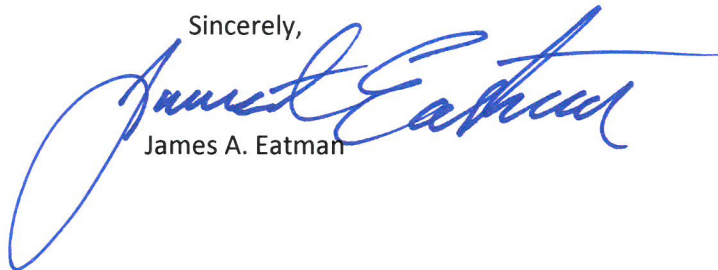
I am writing for to express my utmost support for Amendment 15A NCAC 03M.0509 (the "Amendment"), which will prohibit possession of tarpon and make it illegal to gaff, spear or puncture tarpon by any method other than hook and line.

Tarpon in North Carolina are extremely vulnerable as an overall population due largely to over-harvesting, loss of habitat and poor fish handling practices. By enacting the Amendment, we can address these issues and allow the North Carolina tarpon fishery not only to recover, but eventually to thrive.

Enacting this amendment to protect tarpon would also be an excellent economic decision. Tarpon not only support, but are the mainstay, of valuable recreational fisheries having annual economic impacts counted in the millions of dollars in some other states. North Carolina already draws in millions in tourism dollars from recreational fisherman, and a viable tarpon fishery is likely to exponentially increase those figures. Given the potential growth of the recreational tarpon fishery locally, these proactive measures to both reduce harvest and harm to the fish will help conserve the species and benefit the State of North Carolina and its residents.

For the foregoing reasons, I support Amendment 15A NCAC 03M.0509 and I hope that you will support the Amendment as well. Please feel free to contact me with any questions at [REDACTED] or [REDACTED]

Sincerely,



James A. Eatman

**From:** [Blum, Catherine](#)  
**To:** [Harrison Mabry](#)  
**Subject:** RE: [External] 15A NACAC 03M.0509  
**Date:** Monday, October 28, 2019 4:44:00 PM

---

Dear Harrison Mabry,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

**Catherine Blum**  
Fishery Management Plan and Rulemaking Coordinator  
Division of Marine Fisheries  
N.C. Department of Environmental Quality

252-808-8014 office  
252-726-0254 fax  
[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)

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3441 Arendell Street  
Morehead City, NC 28557-0769



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---

**From:** Harrison Mabry  
**Sent:** Monday, October 28, 2019 1:13 PM  
**To:** Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
**Subject:** [External] 15A NACAC 03M.0509

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I support Amendment 15A NCAC 03M.0509 to prohibit possession of tarpon and make it illegal to gaff, spear or puncture tarpon by any method other than hook and line. I would hope to see NC come along other states such as Florida that make it illegal to remove a tarpon over 40 inches from the water. Thanks for your consideration.  
Harrison



**From:** [Blum, Catherine](#)  
**To:** [Charles Causey](#)  
**Subject:** RE: [External] 15A NCAC 03M 0509  
**Date:** Tuesday, November 05, 2019 9:50:00 AM

---

Dear Charles Causey,

Thank you for taking the time to submit your comments on the Marine Fisheries Commission's proposed changes to the tarpon rule, 15A NCAC 03M .0509. Your comments will be provided to lead staff and to the commission for its consideration prior to voting on final approval of the rule, scheduled for the February 2020 commission meeting.

Catherine

Catherine Blum  
Fishery Management Plan and Rulemaking Coordinator  
Division of Marine Fisheries  
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252-808-8014 office  
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Morehead City, NC 28557-0769

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-----Original Message-----

From: Charles Causey  
Sent: Monday, November 04, 2019 11:44 AM  
To: Blum, Catherine <[catherine.blum@ncdenr.gov](mailto:catherine.blum@ncdenr.gov)>  
Subject: [External] 15A NCAC 03M 0509

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Dear Ms. Blum,

I am writing in support of making the Atlantic Tarpon a “ catch and release”

Fish, and amending your current rule 15A NCAC 03M 0509 to effect this.

I am a long time tarpon fisherman living in [REDACTED], but born and raised in

[REDACTED] where I visit still. I helped institute catch and release in Florida

In the late eighties and it has had a very positive effect not only on a larger

Fishery, but on the Keys' economy .As my background is finance,the economics

Of this move was important. I have spent approximately 400 days fishing and

Studying these fish. If you wish to discuss aspects of the results of Florida's Rule, please call me at [REDACTED]. Thank you for your consideration.

Sincerely,

Charles Causey

**MARINE FISHERIES COMMISSION  
SUMMARY OF PUBLIC HEARING FOR PROPOSED RULES  
DIVISION OF MARINE FISHERIES  
MOREHEAD CITY CENTRAL DISTRICT OFFICE  
MOREHEAD CITY, N.C.  
OCT. 23, 2019, 6 PM**

**Marine Fisheries Commission:** Cameron Boltes

**Division of Marine Fisheries Staff:** Ashley Bishop, Catherine Blum, Dana Gillikin, Lara Klibansky, Stephanie McNerny, Tina Moore

**Public:** Jot Owens, Nick Roberts, Kelly Bordeaux, Phillip Ambler

**Media:** None

Commissioner Cameron Boltes opened the public hearing for Marine Fisheries Commission proposed rules at 6 p.m. He explained that there are changes to two rules proposed by the Marine Fisheries Commission and the effective date of these rules is subject to legislative review per S.L. 2019-198. He said public comments on the proposed rules will be presented to the Marine Fisheries Commission at its Feb. 19-21, 2020 meeting prior to its vote on final approval of the rules. Written comments will be accepted through Dec. 2. He reviewed guidelines of the public hearing process and explained the hearing is a formal process to receive public comments only about the proposed rules as published in the *N.C. Register*.

Division staff member Catherine Blum reviewed the proposed rules by explaining the reason for proposed action for each of the two rules as published in Volume 34, Issue 07 of the *N.C. Register*.

Commissioner Boltes opened the floor for the public to provide comments.

Jot Owens, a full-time fishing guide in the Wilmington area, supports the tarpon rule change. He takes many anglers tarpon fishing and says that it makes up about 10-15% of his annual trips. Tarpon anglers are passionate about these fish and come to North Carolina from all over to catch tarpon. He notes that he is also a finfish tagger for the division and NOAA Fisheries. He has been talking to other anglers and organizations about tarpon migratory patterns to try to figure out what is going on. He said these fish are killed from time to time because they are being used for bait or do not survive after being handled. The Union for Conservation of Nature has classified the tarpon as vulnerable and stocks are down by about 30% due to overfishing in some areas, habitat loss, and harmful fish handling practices. Tarpon are highly vulnerable and recreationally valued fish into the millions of dollars in other states. He said that it is our duty to protect these highly migratory fish while they are in our waters.

Nick Roberts is a native of North Carolina and worked for many years as a fishing guide in North Carolina. He said he is representing the Bonefish and Tarpon Trust (BTT), based in Miami, Florida. He said BTT is a science-based conservation organization working to conserve gamefish species, including tarpon. BTT's efforts focus on the species, their habitats, and the effective management of the tarpon fishery locally and regionally. BTT supports the tarpon rule change to prohibit the possession of tarpon and to make it illegal to gaff, spear, or puncture a tarpon by any method other than hook and line. They support this change for many reasons. 1) The Atlantic tarpon have been classified as vulnerable by the International Union of Conservation of Nature due to overharvest, loss of habitat, and detrimental fish handling practices. 2) Tarpon in North Carolina waters are part of a larger regional fishery that could have

originated as far south as the Florida Keys. The harvest of tarpon impacts the recreational fishery locally and regionally. 3) Tarpon are long-lived and slow to reach sexual maturity and harvest can further accelerate losses in the population. 4) Lip gaffing and other puncturing methods reduce the tarpon feeding and increase catch and release mortality. 5) Economic impacts of the tarpon counted in the millions in other states. Proactive measures to reduce harm and harvest of the fish will help conserve the species and benefit the state of North Carolina.

Kelly Bordeaux spoke on behalf of several recreational anglers from Beaufort, North Carolina. He and his group have been fishing for over 35 years and fish for tarpon on the Neuse River and in Pamlico Sound. They have two tournaments each summer that bring in about 20 boats, which boosts the economic impact of the recreational fishery. Poor handling practices will cause a decline in the fishery, which will negatively affect participation and the economy. He has been involved with research at the University of Miami, including a 2008 tag that was recovered in North Carolina in September 2019. He believes there is no commercial value in the tarpon fishery. He said it is a good thing if we can eliminate the chance of losing a few fish to poor handling practices.

Phillip Ambler said it would save a lot of fish if you would not be allowed to take the fish on the boat and if you have to use circle hooks only. He did it for red drum and said that hundreds were saved by not using J-hooks. Many years ago, he tagged fish from the Florida Keys and had tags come all the way from Havana, Cuba. He said they have been losing a lot of fish in the Pamlico Sound. Many that were tagged went to the Chesapeake; the fish have gone north. He said fishing is down to about 10% of what is used to be over the last 10 years. He said to leave the fish in the water, but he does not know how that would work for pier fishing.

Hearing no further comments on the proposed rules, Commissioner Boltes closed the hearing at 6:20 p.m.

/jl

# Reclassification of Special Secondary Nursery Areas to Permanent Secondary Nursery Areas Issue Paper

Jan. 27, 2020

## I. ISSUE

The consideration of changing the designation of special secondary nursery areas (SSNAs) that have not been opened to trawling since 1991 to permanent secondary nursery areas (SNAs)

## II. ORIGINATION

The North Carolina Shrimp Fishery Management Plan (FMP) Amendment 1 and the North Carolina Marine Fisheries Commission (MFC)

## III. BACKGROUND

In February 2015, the Shrimp FMP Amendment 1 and its rules were adopted by the MFC. The focus of Amendment 1 was to address bycatch in the commercial and recreational shrimp fishery (NCDMF 2015a). Management options examined in the FMP were separated into 1) gear modifications; 2) effort management; 3) area restrictions; and 4) the use of other fishing gears. For each of these management options, issue papers were developed and presented to the Shrimp FMP Advisory Committee (AC), as well as the regional and standing advisory committees of the MFC. Area restrictions to reduce shrimp trawl bycatch were evaluated for all internal coastal waters, Pamlico Sound and its adjacent tributaries, SSNAs, and portions of Brunswick County. With the adoption of Amendment 1, shrimp trawling was prohibited in the Intracoastal Waterway (IWW) channel from Sunset Beach to the South Carolina state line, including Eastern Channel, lower Calabash River and Shallotte River, and was supported by both the Division and Shrimp FMP AC. Prior to the adoption of Amendment 1, these areas were not opened for 10 to 12 years due to the abundance of small fish and shrimp. In addition to the area closure, the MFC also recommended that the MFC Habitat and Water Quality Advisory Committee (AC) provide input on changing the designation of certain SSNAs that have not been opened to trawling since 1991 to permanent SNAs. This recommendation was also supported by the Division and adopted by the MFC. The Shrimp FMP AC did not provide a recommendation for this management option.

A petition for rulemaking was submitted to the Marine Fisheries Commission in November 2016 that potentially overlapped with the issue of changing the designation of SSNAs and a second petition was submitted in May 2019. Due to continuing petition issues, rule action was held until the petitions were resolved. Both rulemaking petitions have been resolved and neither one resulted in rulemaking. To comply with the selected action on this issue in Shrimp FMP Amendment 1 this Issue Paper was drafted and begins the process for rule consideration as part of the 2020-2021 rule cycle.

Primary nursery areas (PNAs), SNAs, and SSNAs are defined in MFC Rule 15A NCAC 03I .0101 and designated in 15A NCAC 03R .0103, .0104, and .0105. It is unlawful to use any trawl net, long haul seine, swipe net, dredge, or mechanical method for clams or oysters for the purpose of taking any marine fishes in PNAs. In SNAs, it is unlawful to use trawl nets for any purpose. However, in SSNAs the Fisheries Director, may, by proclamation, open any or all of the SSNAs, or any portion thereof to shrimp or crab trawling from August 16 through May 14. The intent of these rules and proclamations is to protect this nursery habitat for young finfish and crustaceans as well as developing sub-adults. By allowing limited trawling in SSNAs, fishermen are allowed to catch shrimp late in the season that have not migrated out into the larger estuaries. The opening and closing of SSNAs is based on the size and the amount of the shrimp and finfish presence. The division conducts regular sampling to monitor shrimp size and abundance as well as the abundance of bycatch if the area is being considered for opening. Target sizes (count of shrimp per pound heads-on) differ by waterbody within the state to account for variability of boat sizes, size preferences of user groups, geographical differences in shrimp size at migration, weather events, and socioeconomic conditions. The opening and closing of these SSNAs can be highly influenced by environmental conditions and their proximity to major inlets and rivers, as well as stakeholder input.

There are approximately 37,400 acres of SSNAs in North Carolina; however, several of these areas have not opened since the 1990s (Table 1). In the Pamlico and Pungo rivers, these SSNAs include: Pungo, Scranton, Slade, South, and Bond/Muddy creeks (Figure 1). Currently, the use of shrimp trawls (not crab trawls) is prohibited in the Pungo River upstream of a line from

Wades Point to Abel Bay and in the Pamlico River upstream of a line from Wades Point to the western shore entrance of Goose Creek. However, in November 2019, the MFC selected the preferred management action to prohibit the use of crab trawls in areas where shrimp trawls are already prohibited in the Pamlico, Pungo, and Neuse Rivers (15A NCAC 03R .0114). Thus, reclassifying these areas as permanent SNAs would not further impact crab trawling once Amendment 3 of the Blue Crab FMP is adopted in 2020.

Following the adoption of the 2006 Shrimp FMP, the Newport River SSNA was closed as a result of the Trawl Nets Prohibited Area (TNPA) designation (Hardesty Farm line) becoming a permanent line by rule (MFC Rule 15A NCAC 03R .0106(7); Figure 2). The Fisheries Director no longer has the authority to open these SSNAs since they are upstream of the permanent shrimp trawls prohibited and TNPA lines established by the Shrimp FMP. The SSNAs in the lower Cape Fear River, Lockwood Folly River, and Saucepan Creek have not opened since the late 1980s (Figures 3 and 4). Division sampling has shown that shrimp in these areas rarely reach large sizes with the heads-on count being greater than 60 throughout the season; the target size for this area is 40-50 count.

Table 1. Special secondary nursery areas (SSNA) that have not been opened.

Current Rule ID 03R .0105	Description	Year Designated (reclassified)	Latest Year Opened	Proclamation Reference
2 (a)	Pungo Creek*	1989	1990	SH-22-90
2 (b)	Scranton Creek*	1989	1990	SH-22-90
2 (c)	Slade Creek*	1989	1990	SH-22-90
2 (d)	South Creek*	1989	1990	SH-22-90
2 (e)	Bond Creek/Muddy Creek*	1989	1990	SH-22-90
6	Newport River*	1991	2004	SH-4-2003
10	Cape Fear River**	1986	-	None
11	Lockwood Folly River**	1986	-	None
12	Saucepan Creek**	1986	-	None

\* Fisheries Director no longer has authority to open to shrimp trawls due to line changes from rule 15A NCAC 03R .0106(7) and 15A NCAC 03R .0114 (1) & (2)

\*\* Not opened after SSNA designation

#### IV. AUTHORITY

- § 113-134. Rules
- § 113-173. Recreational Commercial Gear License
- § 113-182. Regulation of fishing and fisheries
- § 113-182.1 Fishery Management Plans
- § 113-221.1 Proclamations; emergency review
- § 143B-289.52 Marine Fisheries Commission - powers and duties

- 15 NCAC 03J .0103 Gill nets, seines, identification, restrictions
- 15 NCAC 03N .0105 Prohibited gear, secondary nursery areas

#### V. DISCUSSION

Area restrictions for trawling have been used to deal with allocation, resource, bycatch, habitat, and safety issues in North Carolina. Since 1978 almost one million acres of estuarine waters have been closed to trawling through nursery area designations (PNA and SNA), military danger zones and restricted areas, and trawl net prohibited areas. In the North River and Ward Creek SSNAs, permanent closures occurred through public negotiations to resolve the constant movement of lines where shrimp trawling was allowed. These closures eliminated confusion over lines continually moving and provided additional habitat protection from bottom disturbing gear. The movement of the shrimp trawl lines in the Pamlico, Pungo, and

Newport rivers has also prohibited the use of shrimp trawls upstream of the permanent lines, thus protecting habitat used by juvenile spot (*Leiostomus xanthurus*), Atlantic croaker (*Micropogonias undulatus*), shrimp, blue crab (*Callinectes sapidus*), and southern flounder (*Paralichthys lethostigma*). The closure of the Newport River SSNA also provided additional protection to shellfish leases, cultch planting sites, and natural oyster rock located in the SSNA. The most recent closure of the IWW channel from Sunset Beach to the South Carolina state line as well as the SSNAs in Eastern Channel, lower Calabash River, and Shallotte River provide further protection to habitats used by juvenile finfish and crustaceans. These closures will eliminate future bycatch and bottom habitat disturbance since they will be permanently closed to shrimp trawling. However, because most of these areas have been closed for well over two decades, the overall reduction in potential bycatch cannot be quantified.

Changing the designation of the SSNAs listed in Table 1, will have no impact to commercial shrimping since there has been no shrimp trawling in most of these areas since 1990. However, by re-designating these areas to permanent SNAs, crab trawling will no longer be allowed in these areas. However, as noted previously, crab trawling areas in the Pamlico, Pungo, and Neuse Rivers are slated for elimination with the adoption of Amendment 3 of the Blue Crab FMP in 2020. Statewide, effort in the crab trawl fishery has been low in recent years with the number trips ranging from 180 to 470 per year from 2014 to 2016 (NCDMF 2019). The majority of the effort occurs in portions of the Pamlico Sound and the Pamlico, Pungo, and Neuse rivers. Currently, there is no crab trawling in Cape Fear River, Lockwood Folly River, and Saucepan Creek. While the habitat impacts from crab trawling are thought to be limited due to the low amount of effort, studies have shown that crab trawls elevate turbidity and cause structural damage or loss to benthic habitats such as submerged aquatic vegetation and oyster reefs (NCDEQ 2016). Not allowing crab trawling in these areas would provide further protection to critical habitats used by numerous economically important species of fish and invertebrates as well as other prey species. Furthermore, eliminating bottom disturbing gear such as crab and shrimp trawling in these areas would provide additional protection to significant portions of MFC approved Strategic Habitat Areas (SHA). Draft Amendment 3 to the NC Blue Crab FMP (NCDMF 2019) notes that prohibition of blue crab harvest by use of crab and shrimp trawls would have minimal economic effects on the fishery, while addressing fishery and habitat level concerns of these gears.

Attendance requirements for gill nets could also change if the designation of these SSNAs were reclassified to permanent SNAs (see Table 2). MFC Rules 15A NCAC 03J .0103 and 03R .0112 require the attendance of small mesh gill nets in all permanent SNAs, but not in SSNAs. Rule 15A NCAC 03J .0103 was established in October 1999 and at the time contained a list of areas where seasonal small mesh gill net attendance was required. The list of areas was moved to 03R .0112 in 2004. The 2001 Red Drum FMP contained measures for reducing red drum (*Sciaenops ocellatus*) bycatch from small mesh gill nets through attendance requirements (NCDMF 2001). The plan implemented small mesh gill net attendance from May 1 through October 31 (later extended through November) in areas where juvenile red drum typically occur, in shallow bays and creeks, shorelines, and over shallow grass beds. Additionally, the South Atlantic Fishery Management Council (SAFMC) designated specific inshore areas in the south Atlantic region as Essential Fish Habitat (EFH) and Habitat Areas of Particular Concern (HAPC) in their Habitat Plan for red drum (SAFMC 1998). In North Carolina, these federal areas included all state-designated nursery habitats of particular importance for red drum (i.e., all PNAs and all SNAs). When the gill net attendance rule language was adopted it covered areas listed as PNAs and SNAs, but not SSNAs. The stated rationale for red drum bycatch reduction would apply to any SNA (past or future). The SSNAs in the lower Cape Fear River, Lockwood Folly River, and Saucepan Creek, with a change to permanent SNAs, would require additional attendance in all waters (not just 50 yards from the shoreline) from May through November, unless exempted from the gill net attendance rule 15A NCAC 03R .0112 (Table 2).

Following the adoption of the 2006 Shrimp FMP (NCDMF 2006), an issue occurred in a portion of the Newport River upstream of the "Hardesty Farm line" after it was classified as a trawl net prohibited area (TNPA) under MFC Rule 15A NCAC 03R .0106(7). While the new designation served the desired purpose of prohibiting trawling upstream of that line, it created an inconsistency with MFC Rule 15A NCAC 03N .0105(b) concerning existing SSNA designation which allowed for seasonal openings of shrimp trawling within the area inside the TNPA. With the adoption of Amendment 1 to the Striped Mullet FMP (NCDMF 2015b), inconsistencies with gill net attendance rules within the Newport River TNPA were resolved by removing the Newport River TNPA reference from MFC Rule 15A NCAC 03R .0112(b)(1), but leaving it subject to 03R .0112(b)(5). By doing this, the striped mullet (*Mugil cephalus*) fishery as well as the other small mesh gill net fisheries could continue to operate, while still prohibiting trawling as intended in the 2006 Shrimp FMP. If the Newport River SSNA is changed to a permanent SNA, the inconsistency with proclamation authority to open the area to trawling which is in a TNPA is corrected, but the change would require May through November small mesh gill net attendance.

The current gill net attendance requirements for each SSNA are visualized in Figures 5-10. If the SSNAs are reclassified to permanent SNAs, consideration could be given to whether they should or should not be subject to MFC Rule 03R .0112(b)(1). Additional rule changes may be required based on this need. Areas could only be subject to MFC Rule 03R .0112(b)(5), which requires gill net attendance (<5 inch stretched mesh) within 50 yards of shore from May 1 through September 30 for the southern areas if exemption wording for these SNAs is added to MFC Rule 03R .0112(b)(1). For the SNAs in the Pamlico and Pungo rivers, if exemption wording is not added to MFC Rule 03R .0112(b)(1) then these SNAs would be required to have gill net attendance (<5 inch stretched mesh) in all waters from May 1 through November 30 and within 200 yards of shore from December 1 through April 30 [except for Scranton Creek which already has year-round gill net attendance (<5 inch stretched mesh) in all waters]. However, if these areas are made permanent SNAs, other fisheries and FMPs could be impacted. MFC Rule 15A 03N .0105 prohibits the use of trawl nets for any purpose in permanent SNAs, thus the Blue Crab FMP would be impacted and crab trawling would be prohibited in these areas. Another option is to reclassify the SSNAs in Table 1 as TNPAs. By doing this, issues associated with gill net attendance would be avoided, while prohibiting shrimp trawling as recommended by Amendment 1 to the Shrimp FMP. However, making these areas TNPAs, they would lose their designation as “nursery areas”. Maintaining the designation of SNA, rather than TNPA, makes the basis for no trawling clear to stakeholders. Additionally, the nursery designation allows future opportunities for protections from habitat related impacts associated with development activities through actions by other agencies. Another option would be for these areas to keep their current designation as SSNAs and remain closed to shrimp trawling unless changed in subsequent Shrimp FMP amendments.



Table 2. Current and potential gill net attendance requirement changes (<5 inch stretched mesh) for each special secondary nursery area under consideration for reclassification by management option.

Management Options	Special Secondary Nursery Area								
	Pungo Creek	Scranton Creek	Slade Creek	South Creek	Bond and Muddy creeks	Newport River	Cape Fear River	Lockwood Folly River	Saucepan Creek
Current gill net attendance requirements	Year-round attendance within 200 yards of shore	Year-round attendance in all waters	Year-round attendance within 200 yards of shore	Year-round attendance within 200 yards of shore	Year-round attendance within 200 yards of shore	Attendance within 50 yards of shore from May 1 - September 30	Attendance within 50 yards of shore from May 1 - September 30	Attendance within 50 yards of shore from May 1 - September 30	Attendance within 50 yards of shore from May 1 - September 30
Option 1: Remain as SSNAs*	No change	No change	No change	No change	No change	No change	No change	No change	No change
Option 2: Reclassify as SNAs with gill net attendance	Year-round attendance within 200 yards of shore and attendance in all waters from May 1 - November 30	No Change	Year-round attendance within 200 yards of shore and attendance in all waters from May 1 - November 30	Year-round attendance within 200 yards of shore and attendance in all waters from May 1 - November 30	Year-round attendance within 200 yards of shore and attendance in all waters from May 1 - November 30	Extends gill net attendance period in all waters from May 1 - November 30	Extends gill net attendance period in all waters from May 1 - November 30	Extends gill net attendance period in all waters from May 1 - November 30	Extends gill net attendance period in all waters from May 1 - November 30
Option 3: Reclassify as SNAs <sup>±</sup> with gill net attendance exemption	No change	No change	No change	No change	No change	No change	No change	No change	No change
Option 4: Reclassify as TNPA <sup>†</sup>	No change	No change	No change	No change	No change	No change	No change	No change	No change

\* *Special Secondary Nursery Area*

<sup>±</sup> *Secondary Nursery Area*

<sup>†</sup> *Trawl Net Prohibited Area*

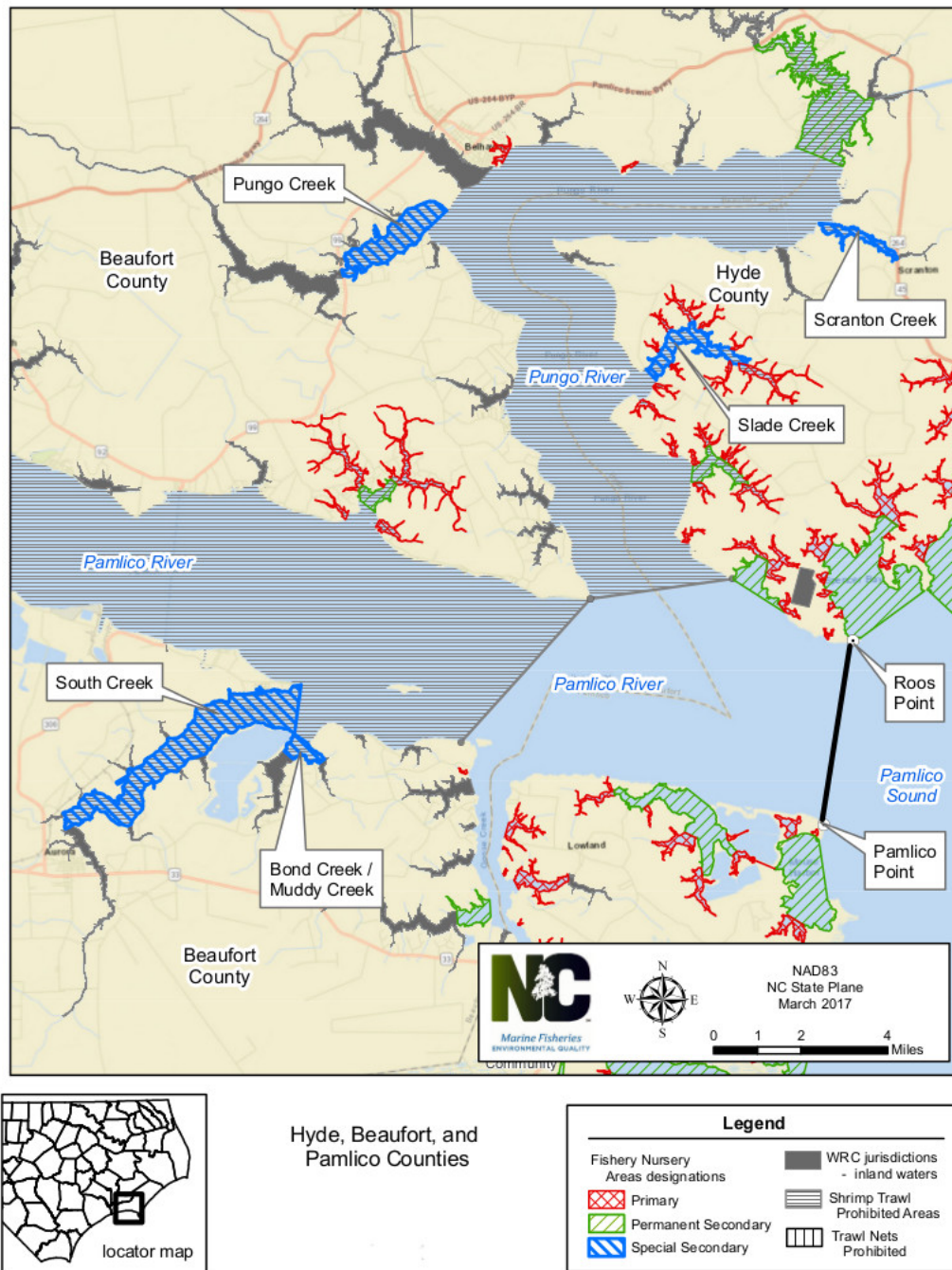
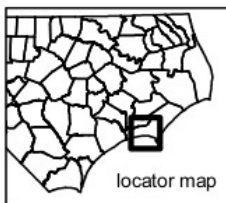
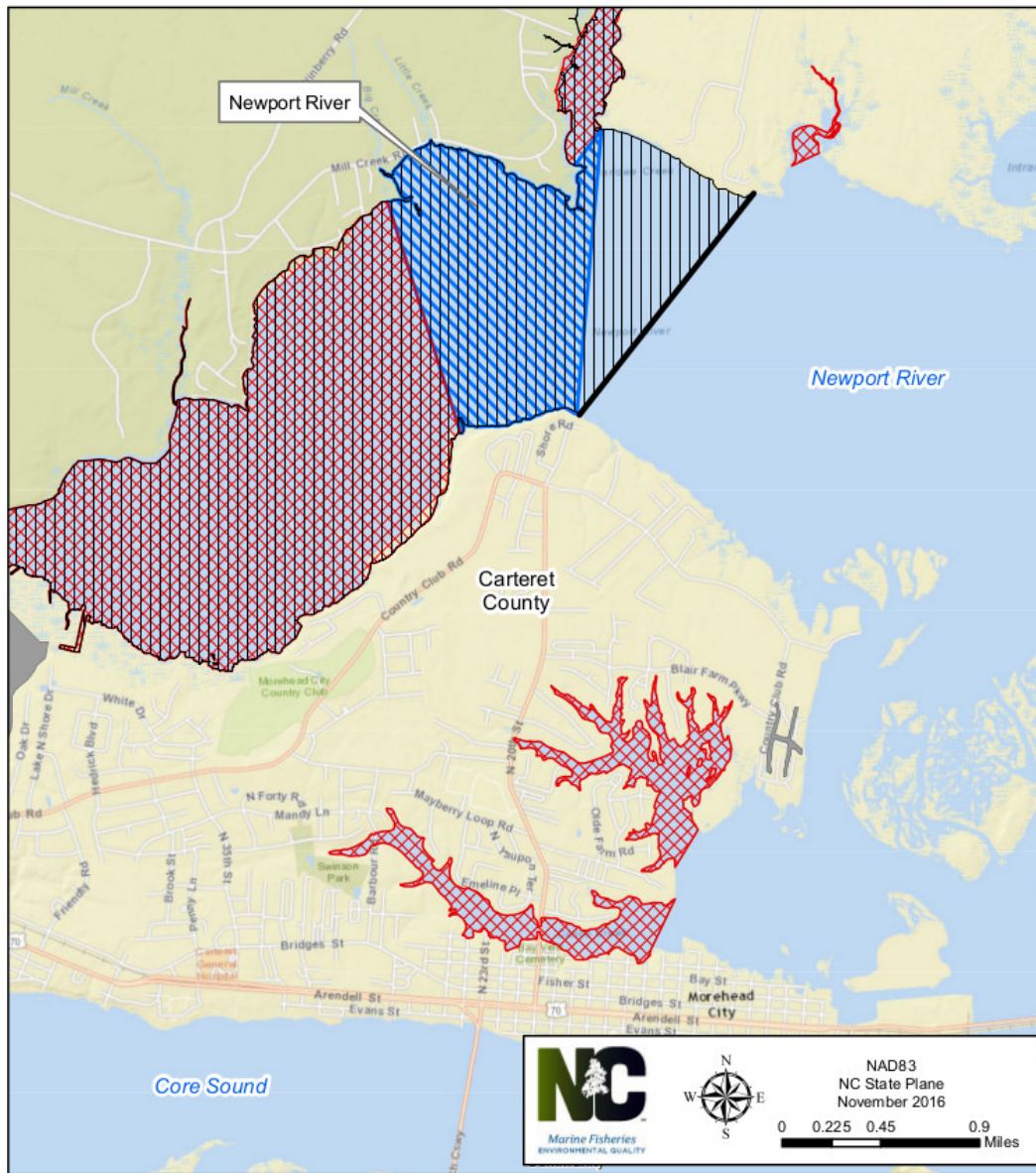


Figure 1. Map of the shrimp management and nursery areas in the Pamlico and Pungo rivers. Areas to the west of the line beginning at Roos Point to Pamlico Point are subject to gill net attendance rules (<5 inch stretched mesh). Gill net attendance will be required in all areas marked as special secondary nursery areas (SSNAs) from May 1 through November 30 if their designation is changed to permanent secondary nursery areas (SNAs). Year-round attendance (<5 inch stretched mesh) is already required in Scranton Creek.



Carteret County

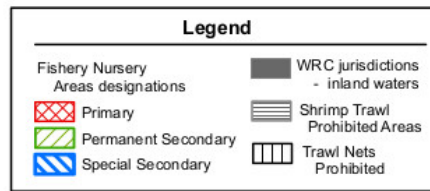
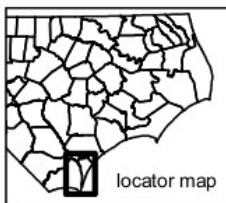
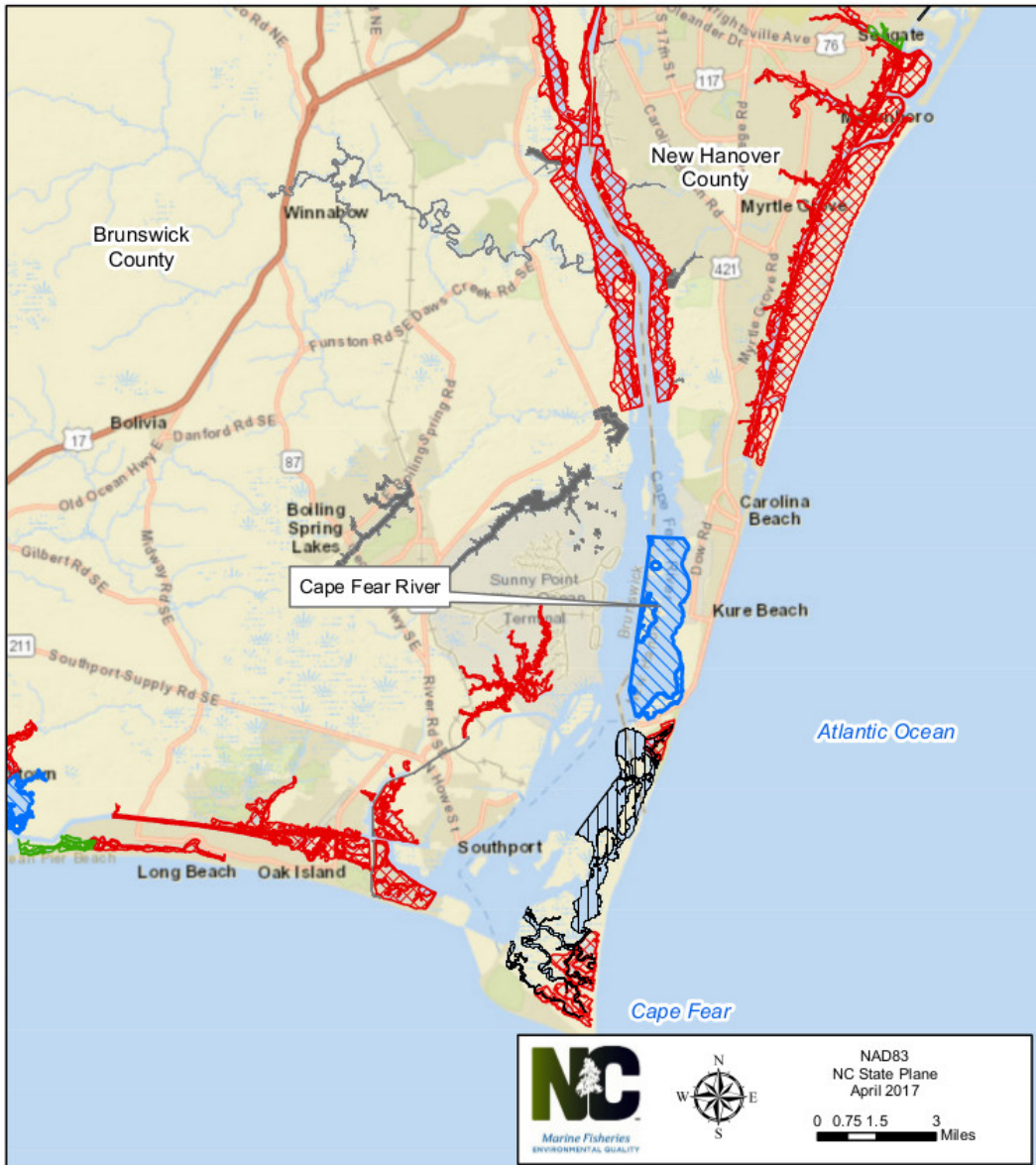


Figure 2. Map of the shrimp management and nursery areas in the Newport River. Gill net attendance (<5 inch stretched mesh) will be required in all areas marked as special secondary nursery areas (SSNAs) from May 1 through November 30 if their designation is changed to permanent secondary nursery areas (SNAs).



Brunswick County  
and  
New Hanover County

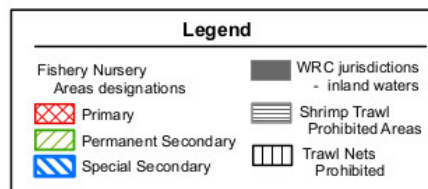
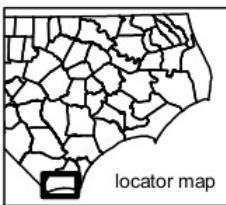
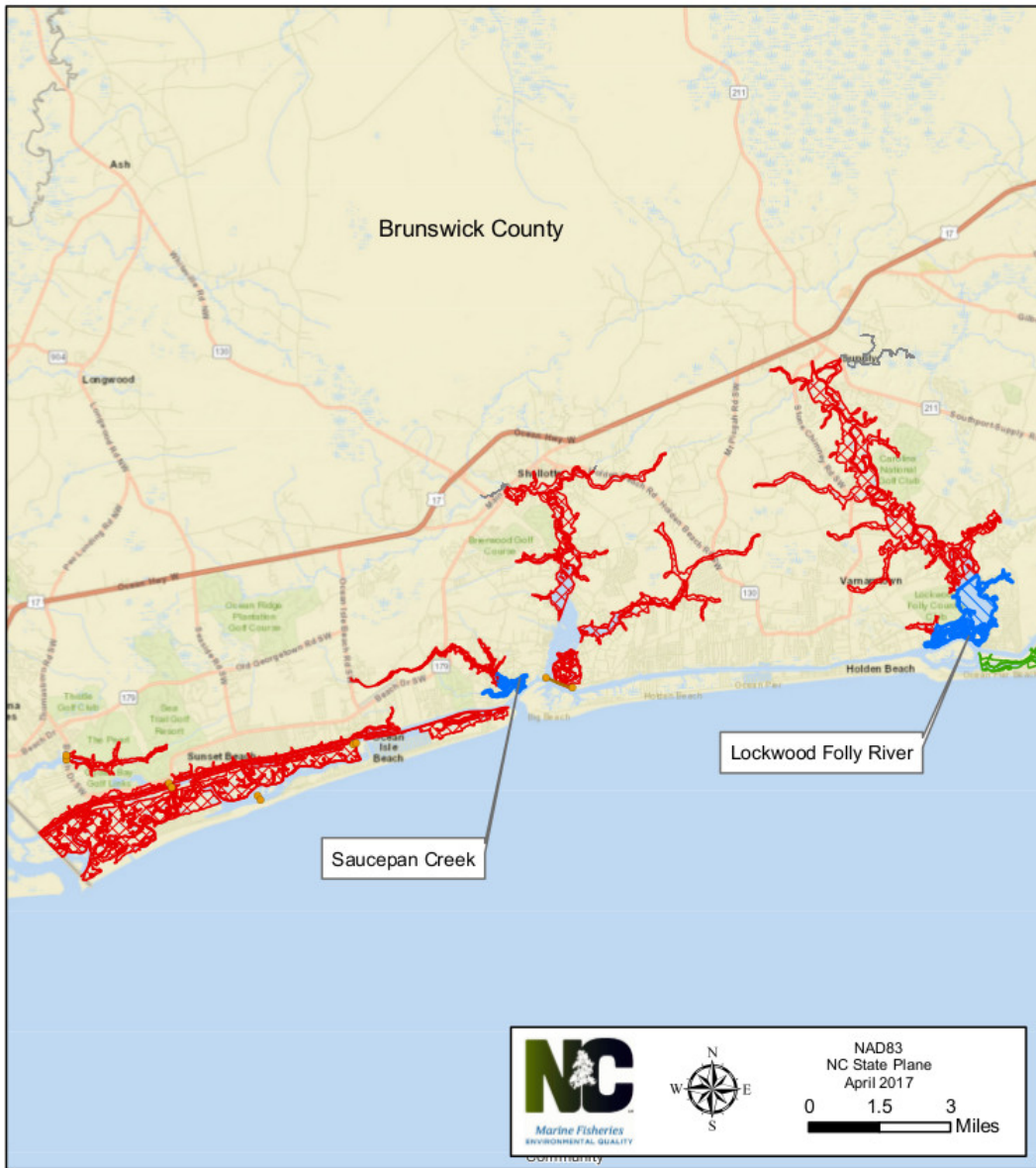


Figure 3. Map of the shrimp management and nursery areas in the Cape Fear River. Gill net attendance (<5 inch stretched mesh) will be required in all areas marked as special secondary nursery areas (SSNAs) from May 1 through November 30 if their designation is changed to permanent secondary nursery areas (SNAs).



Brunswick County

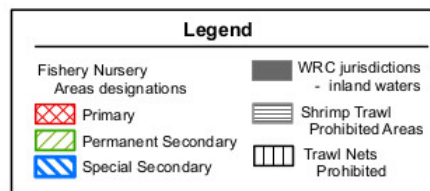
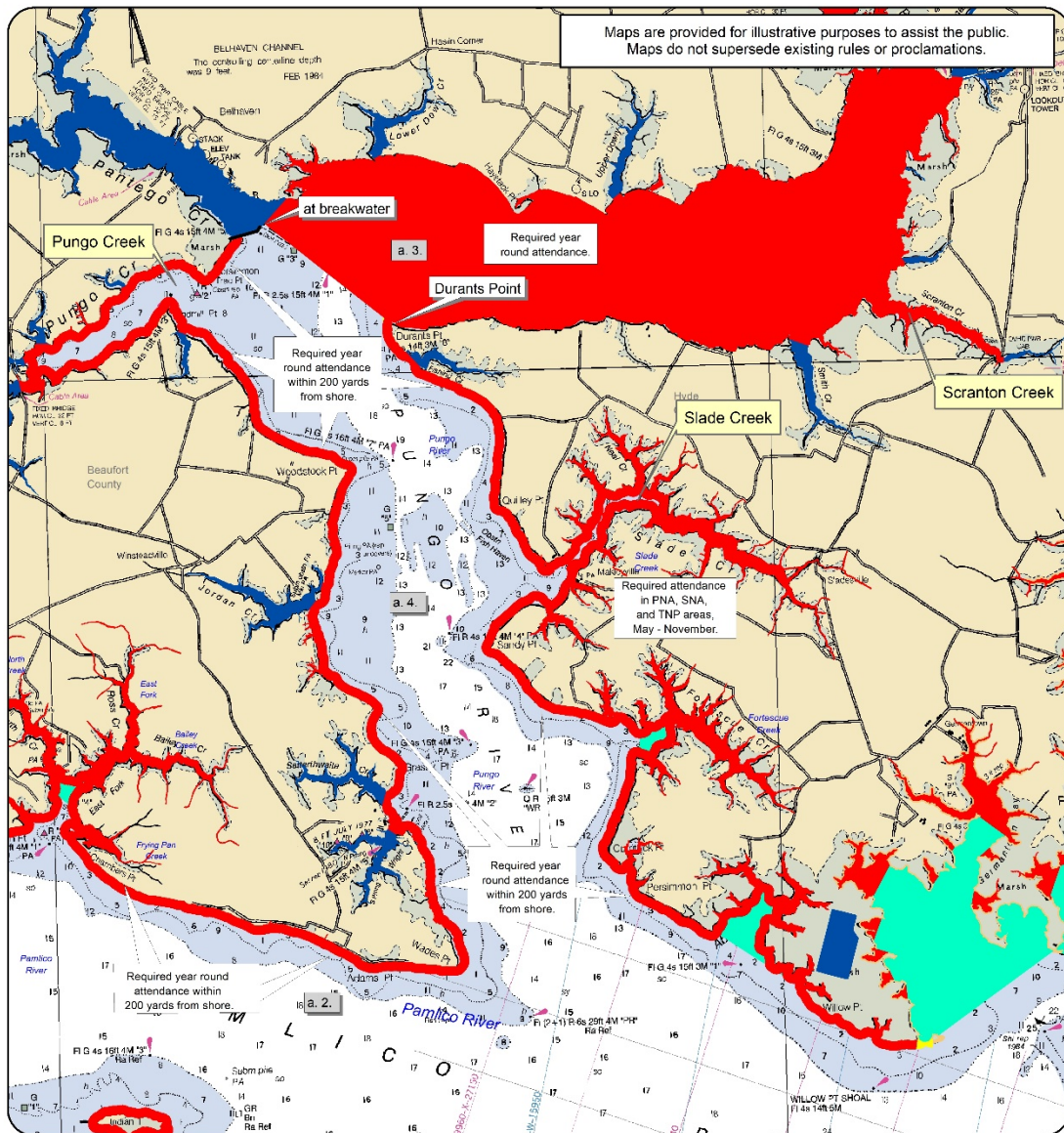


Figure 4. Map of the shrimp management and nursery areas in Brunswick County. Gill net attendance (<5 inch stretched mesh) will be required in all areas marked as special secondary nursery areas (SSNAs) from May 1 through November 30 if their designation is changed to permanent secondary nursery areas (SNAs).



Background maps are NOAA nautical charts.

Attended Gill Net Areas  
for  
Gill Nets Less Than  
5 Inches Mesh Length

- WRC Waters - Gill net prohibited
- Required year round attendance area
- Attendance May- September - 50 yards from shore
- Attendance May - November
- Attendance May - November - 200 yards from shore
- Attendance May - November 50 yards from shore



0 0.5 1 Miles

Datum: NAD83  
Projection: NC State Plane  
Map Date: November 2019

North Carolina DEQ - Division of Marine Fisheries

Figure 5. Map of current gill net attendance (<5 inch stretched mesh) and primary and permanent secondary nursery areas in Pungo, Scranton, and Slade creeks.

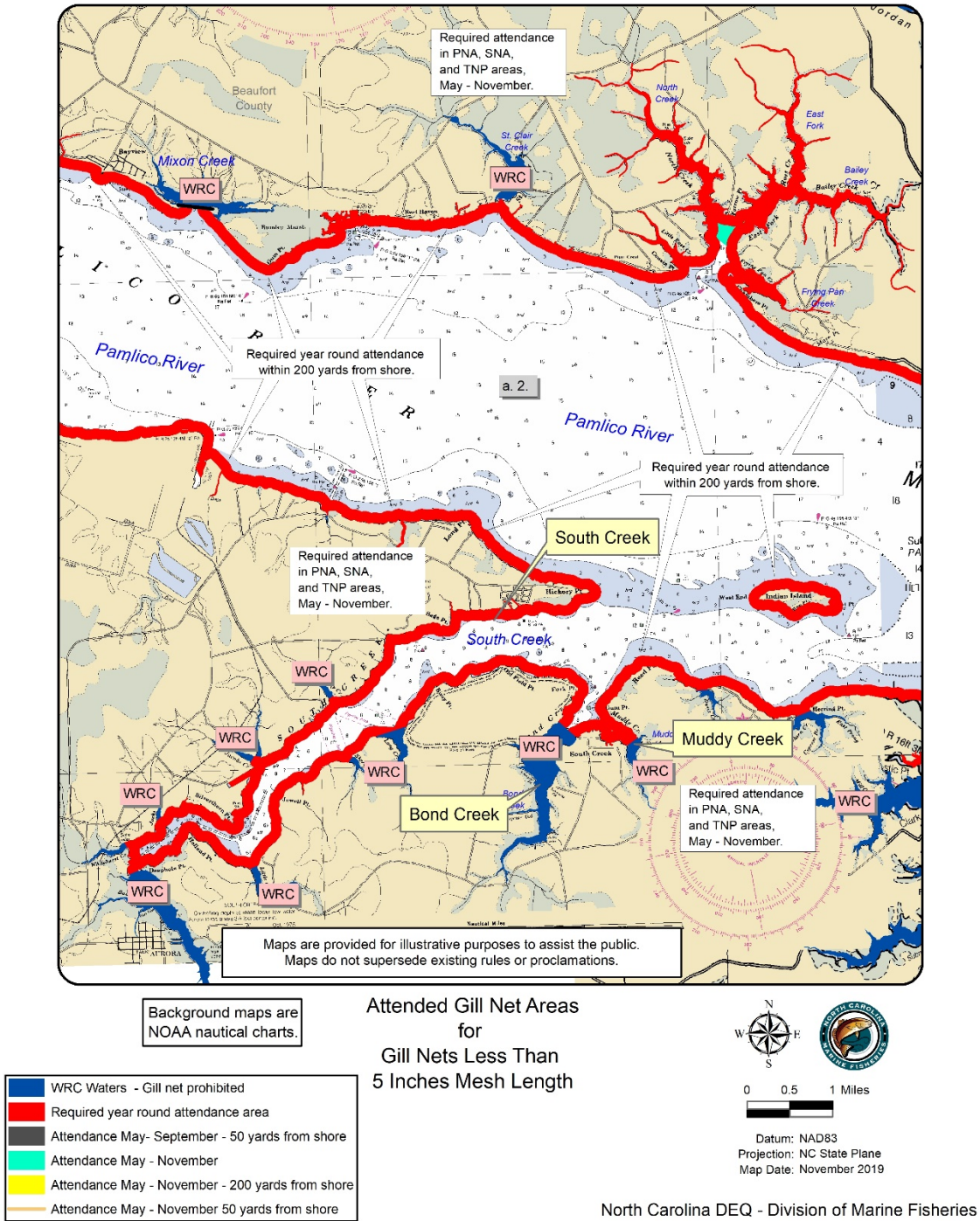


Figure 6. Map of current gill net attendance (<5 inch stretched mesh) and primary and permanent secondary nursery areas in South, Bond, and Muddy Creeks.

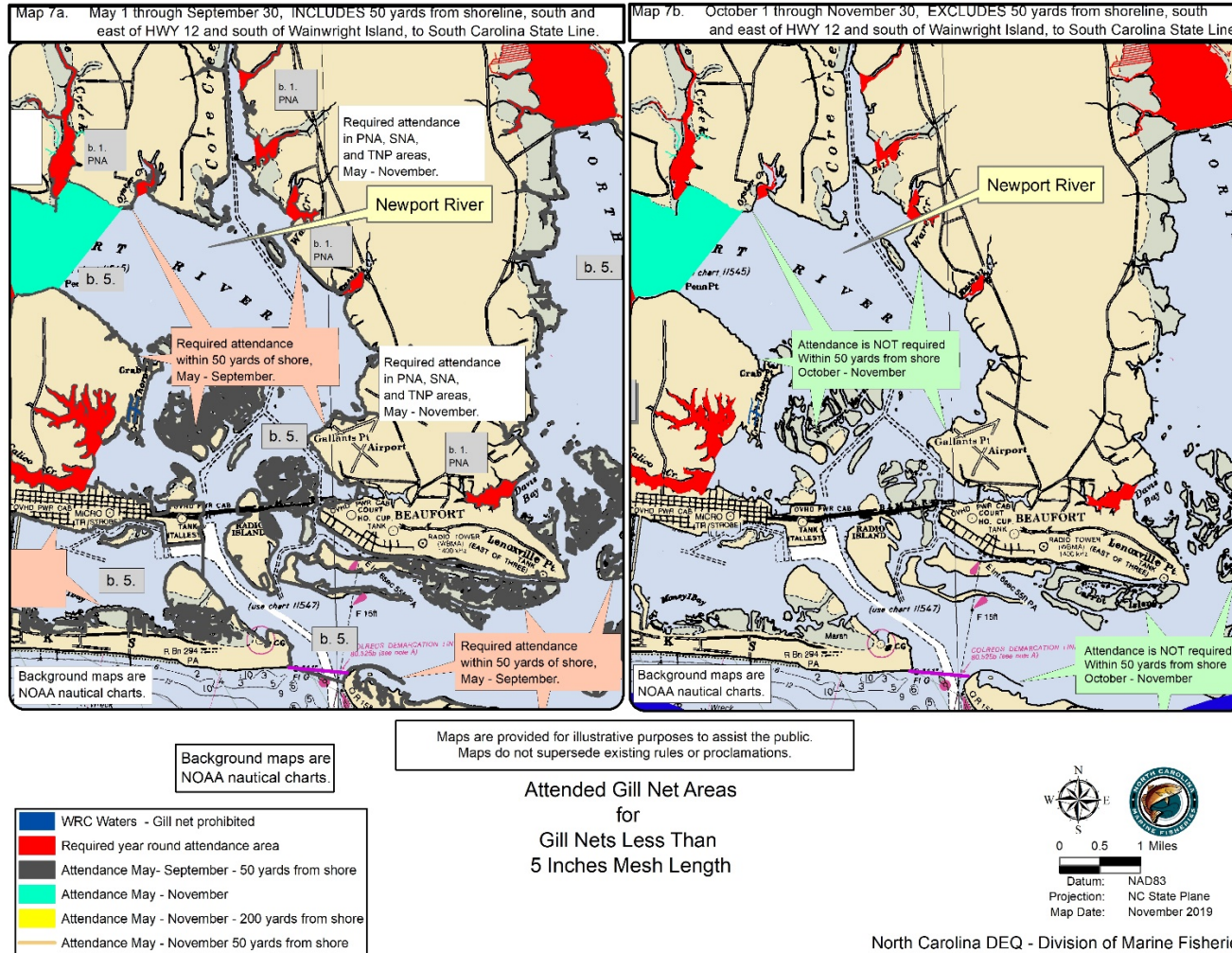


Figure 7. Map of current gill net attendance (<5 inch stretched mesh) and nursery areas in the Newport River.



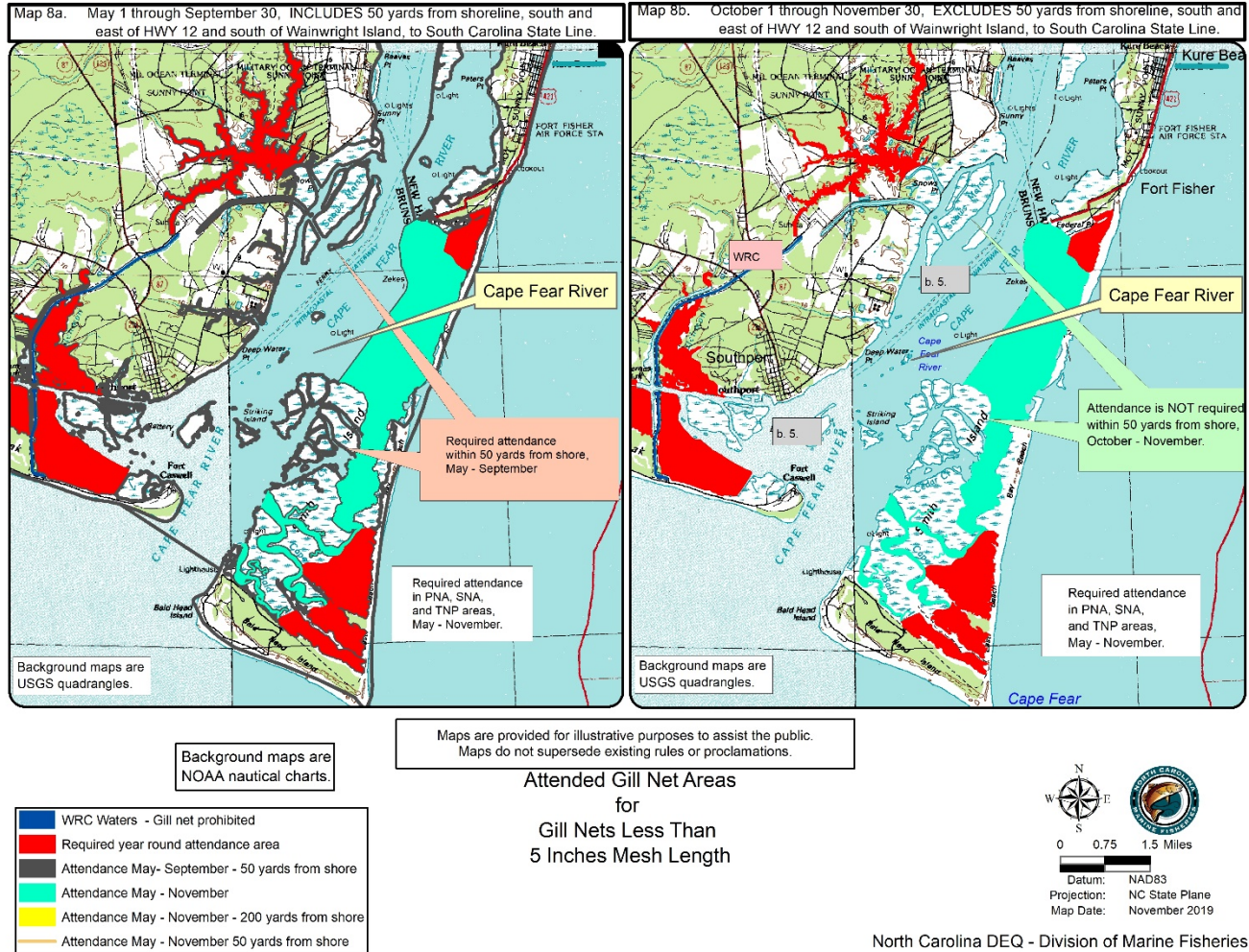


Figure 8. Map of current gill net attendance (<5 inch stretched mesh) and nursery areas in the Cape Fear River.

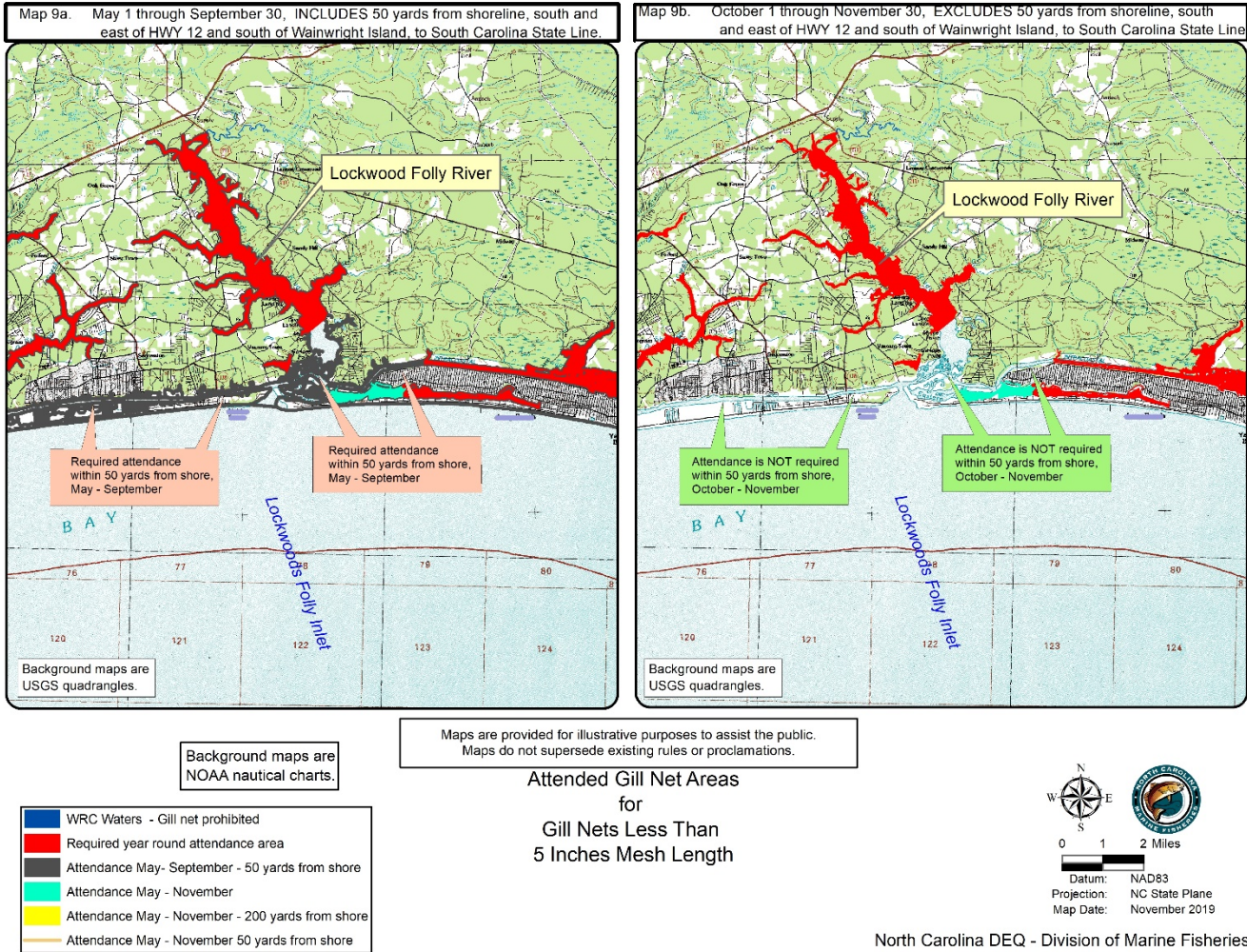


Figure 9. Map of current gill net attendance (<5 inch stretched mesh) and nursery areas in the Lockwood Folly River.

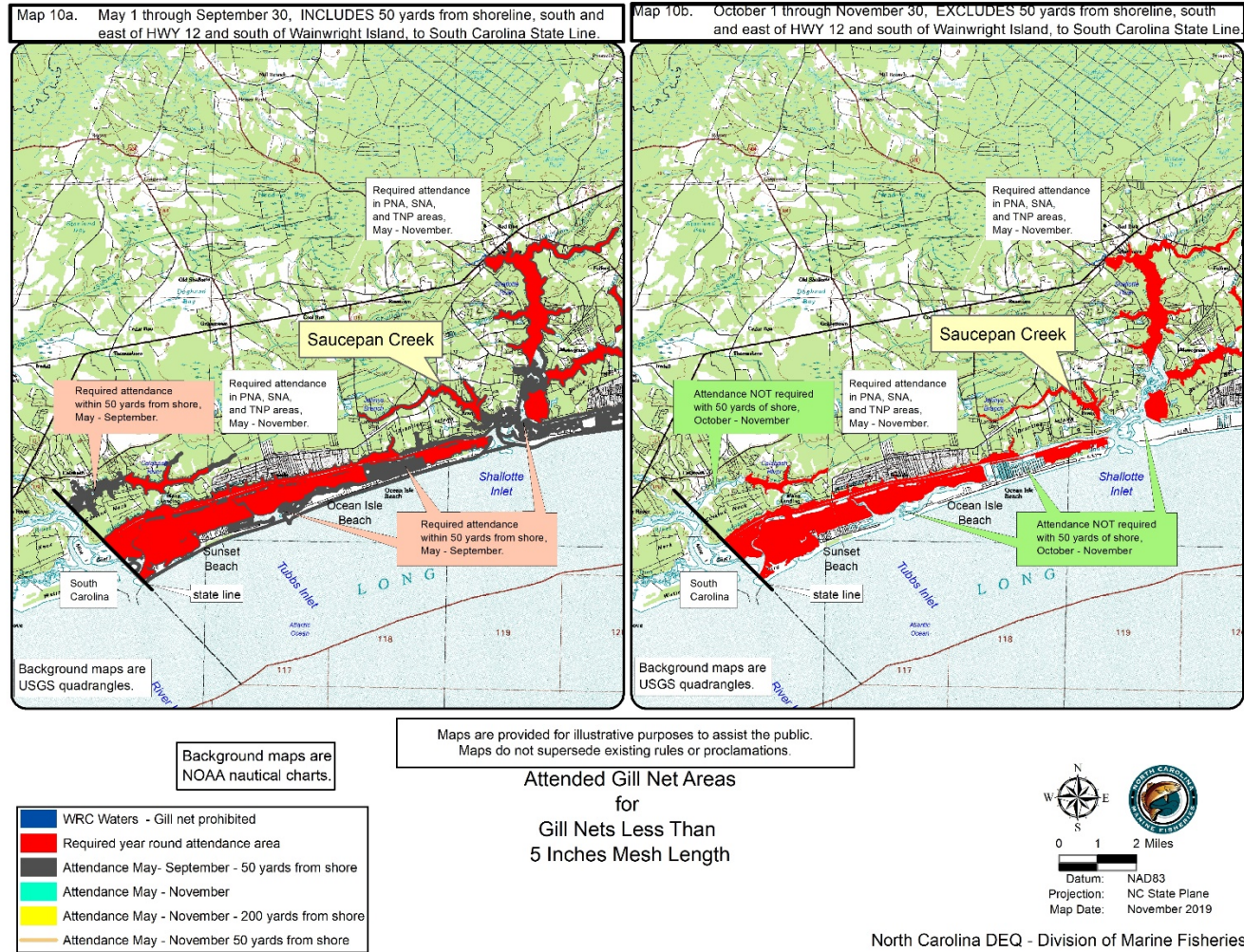


Figure 10. Map of current gill net attendance (<5 inch stretched mesh) and nursery areas in Saucepan Creek.

## VI. PROPOSED RULE(S)

Options 2 and 3:

### 15A NCAC 03R .0104 PERMANENT SECONDARY NURSERY AREAS

The permanent secondary nursery areas referenced in 15A NCAC 03N .0105(a) are delineated in the following coastal water areas:

- (1) Roanoke Sound:  
Inner Shallowbag Bay - west of a line beginning on the northeast shore at a point 35° 54.6729' N – 75° 39.8099' W; running southerly to the southeast shore to a point 35° 54.1722' N – 75° 39.6806' W;
- (2) ~~In~~ in the Pamlico Long Sound Area:
  - (a) Long Shoal River - north of a line beginning at the 5th Avenue Canal at a point 35° 35.2120' N – 75° 53.2232' W; running easterly to the east shore on Pains Point to a point 35° 35.0666' N – 75° 51.2000' W;
  - (b) Pains Bay - east of a line beginning on Pains Point at a point 35° 35.0666' N – 75° 51.2000' W; running southerly to Rawls Island to a point 35° 34.4666' N – 75° 50.9666' W; running easterly to the east shore to a point 35° 34.2309' N – 75° 50.2695' W;
  - (c) Wysocking Bay - northwest of a line beginning at Benson Point at a point 35° 22.9684' N – 76° 03.7129' W; running northeasterly to Long Point to a point 35° 24.6895' N – 76° 01.3155' W;
  - (d) Juniper Bay-Cunning Harbor - north of a line beginning on the west shore of Juniper Bay at a point 35° 20.6217' N – 76° 15.5447' W; running easterly to a point 35° 20.4372' N – 76° 13.2697' W; running easterly to the east shore of Cunning Harbor to a point 35° 20.3413' N – 76° 12.3378' W;
  - (e) Swanquarter Bay - north of a line beginning at The Narrows at a point 35° 20.9500' N – 76° 20.6409' W; running easterly to the east shore to a point 35° 21.5959' N – 76° 18.3580' W;
  - (f) Deep Cove - The Narrows - north and east of a line beginning on the west shore at a point 35° 20.9790' N – 76° 23.8577' W; running southeasterly to Swanquarter Island to a point 35° 20.5321' N – 76° 22.7869' W; and west of a line at The Narrows beginning on the north shore to a point 35° 20.9500' N – 76° 20.6409' W; running southerly to Swanquarter Island to a point 35° 20.7025' N – 76° 20.5620' W;
  - (g) Rose Bay - north of a line beginning on Long Point at a point 35° 23.3404' N – 76° 26.2491' W; running southeasterly to Drum Point to a point 35° 22.4891' N – 76° 25.2012' W;
  - (h) Spencer Bay - northwest of a line beginning on Roos Point at a point 35° 22.3866' N – 76° 27.9225' W; running northeasterly to Long Point to a point 35° 23.3404' N – 76° 26.2491' W;
  - (i) Abel Bay - northeast of a line beginning on the west shore at a point 35° 23.6463' N – 76° 31.0003' W; running southeasterly to the east shore to a point 35° 22.9353' N – 76° 29.7215' W;
  - (j) Mouse Harbor - west of a line beginning on Persimmon Tree Point at a point 35° 18.3915' N – 76° 29.0454' W; running southerly to Yaupon Hammock Point to a point 35° 17.1825' N – 76° 28.8713' W;
  - (k) Big Porpoise Bay - northwest of a line beginning on Big Porpoise Point at a point 35° 15.6993' N – 76° 28.2041' W; running southwesterly to Middle Bay Point to a point 35° 14.9276' N – 76° 28.8658' W;
  - (l) Middle Bay - west of a line beginning on Deep Point at a point 35° 14.8003' N – 76° 29.1923' W; running southerly to Little Fishing Point to a point 35° 13.5419' N – 76° 29.6123' W;
  - (m) Jones Bay - west of a line beginning on Mink Trap Point at a point 35° 13.4968' N – 76° 31.1040' W; running southerly to Boar Point to a point 35° 12.3253' N – 76° 31.2767' W; and
  - (n) ~~In~~ in the Bay River Area:
    - (i) Bonner Bay - southeast of a line beginning on the west shore at a point 35° 09.6281' N – 76° 36.2185' W; running northeasterly to Davis Island Point to a point 35° 10.0888' N – 76° 35.2587' W; and
    - (ii) Gales Creek-Bear Creek - north and west of a line beginning on Sanders Point at a point 35° 11.2833' N – 76° 35.9000' W; running northeasterly to the east shore to a point 35° 11.9000' N – 76° 34.2833' W;
- (3) ~~In~~ in the Pamlico and Pungo Rivers Area:

- (a) Pungo River - north of a line beginning on the west shore at a point 35° 32.2000' N – 76° 29.2500' W; running east near Beacon "21" to the east shore to a point 35° 32.0833' N – 76° 28.1500' W;
  - ~~(b)~~ Pungo Creek - west of a line beginning on Persimmon Tree Point at a point 35° 30.7633' N – 76° 38.2831' W; running southwesterly to Windmill Point to a point 35° 31.1546' N – 76° 37.7590' W;
  - ~~(c)~~ Scranton Creek - south and east of a line beginning on the west shore at a point 35° 30.6810' N – 76° 28.3435' W; running easterly to the east shore to a point 35° 30.7075' N – 76° 28.6766' W;
  - ~~(d)~~ Slade Creek - east of a line beginning on the west shore at a point 35° 27.8879' N – 76° 32.9906' W; running southeasterly to the east shore to a point 35° 27.6510' N – 76° 32.7361' W;
  - ~~(b)(e)~~ Fortescue Creek - east of a line beginning on Pasture Point at a point 35° 25.9213' N – 76° 31.9135' W; running southerly to the Lupton Point shore to a point 35° 25.6012' N – 76° 31.9641' W;
  - ~~(e)(f)~~ Pamlico River - west of a line beginning on Ragged Point at a point 35° 27.5768' N – 76° 54.3612' W; running southwesterly to Mauls Point to a point 35° 26.9176' N – 76° 55.5253' W;
  - ~~(d)(g)~~ North Creek - north of a line beginning on the west shore at a point 35° 25.3988' N – 76° 40.0455' W; running southeasterly to the east shore to a point 35° 25.1384' N – 76° 39.6712' W;
  - ~~(h)~~ South Creek - west of a line beginning on Hickory Point at a point 35° 21.7385' N – 76° 41.5907' W; running southerly to Fork Point to a point 35° 20.7534' N – 76° 41.7870' W;
  - ~~(i)~~ Bond Creek/Muddy Creek - south of a line beginning on Fork Point at a point 35° 20.7534' N – 76° 41.7870' W; running southeasterly to Gum Point to a point 35° 20.5632' N – 76° 41.4645' W;
  - ~~(e)(j)~~ ~~In~~ in the Goose Creek Area, Campbell Creek - west of a line beginning on the north shore at a point 35° 17.3600' N – 76° 37.1096' W; running southerly to the south shore to a point 35° 16.9876' N – 76° 37.0965' W; and
  - ~~(f)(k)~~ Oyster Creek-Middle Prong - southwest of a line beginning on Pine Hammock at a point 35° 19.5586' N – 76° 32.8830' W; running easterly to Cedar Island to a point 35° 19.5490' N – 76° 32.7365' W; and southwest of a line beginning on Cedar Island at a point 35° 19.4921' N – 76° 32.2590' W; running southeasterly to Beard Island Point to a point 35° 19.1265' N – 76° 31.7226' W;
- (4) ~~In~~ in the Neuse River Area:
- (a) Lower Broad Creek - west of a line beginning on the north shore at a point 35° 05.8314' N – 76° 35.3845' W; running southwesterly to the south shore to a point 35° 05.5505' N – 76° 35.7249' W;
  - (b) Greens Creek - north of a line beginning on the west shore of Greens Creek at a point 35° 01.3476' N – 76° 42.1740' W; running northeasterly to the east shore to a point 35° 01.4899' N – 76° 41.9961' W;
  - (c) Dawson Creek - north of a line beginning on the west shore at a point 34° 59.5920' N – 76° 45.4620' W; running southeasterly to the east shore to a point 34° 59.5800' N – 76° 45.4140' W;
  - (d) Goose Creek - north and east of a line beginning at a point on the west shore at a point 35° 02.6642' N – 76° 56.4710' W; running southeasterly to a point on Cooper Point 35° 02.0908' N – 76° 56.0092' W;
  - (e) Upper Broad Creek - northeast of a line beginning at a point on Rowland Point on the north shore at a point 35° 02.6166' N – 76° 56.4500' W; running southeasterly to the south shore to a point 35° 02.8960' N – 76° 56.7865' W;
  - (f) Clubfoot Creek - south of a line beginning on the west shore at a point 34° 54.5424' N – 76° 45.7252' W; running easterly to the east shore to a point 34° 54.4853' N – 76° 45.4022' W; and
  - (g) ~~In~~ in the Adams Creek Area, Cedar Creek - east of a line beginning on the north shore at a point 34° 56.1203' N – 76° 38.7988' W; running southerly to the south shore to a point 34° 55.8745' N – 76° 38.8153' W;
- ~~(5)~~ Newport River - west of a line beginning near Penn Point on the south shore at a point 34° 45.6960' N – 76° 43.5180' W; running northeasterly to the north shore to a point 34° 46.8490' N – 76° 43.3296' W;
- ~~(5)(6)~~ Virginia Creek - all waters of the natural channel northwest of the primary nursery area line;
- ~~(6)(7)~~ Old Topsail Creek - all waters of the dredged channel northwest of the primary nursery area line;
- ~~(7)(8)~~ Mill Creek - all waters west of a line beginning on the north shore at a point 34° 20.6420' N – 77° 42.1220' W; running southwesterly to the south shore to a point 34° 20.3360' N – 77° 42.2400' W;
- ~~(8)(9)~~ Pages Creek - all waters west of a line beginning on the north shore at a point 34° 16.1610' N – 77° 45.9930' W; running southwesterly to the south shore to a point 34° 15.9430' N – 77° 46.1670' W;

- ~~(9)~~(10) Bradley Creek - all waters west of a line beginning on the north shore at a point 34° 12.7030' N – 77° 49.1230' W; running southerly near the dredged channel to a point 34° 12.4130' N – 77° 49.2110' W; ~~and~~
- (11) Cape Fear River - all waters bounded by a line beginning on the south side of the Spoil Island at the intersection of the Intracoastal Waterway and the Cape Fear River ship channel at a point 34° 01.5780' N – 77° 56.0010' W; running easterly to the east shore of the Cape Fear River to a point 34° 01.7230' N – 77° 55.1010' W; running southerly and bounded by the shoreline to the Ferry Slip at Federal Point at a point 33° 57.8080' N – 77° 56.4120' W; running northerly to Bird Island to a point 33° 58.3870' N – 77° 56.5780' W; running northerly along the west shoreline of Bird Island and the Cape Fear River spoil islands back to point of origin;
- (12) Lockwood Folly River - all waters north of a line beginning on Howells Point at a point 33° 55.3680' N – 78° 12.7930' W and running in a westerly direction along the Intracoastal Waterway near Intracoastal Waterway Marker "46" to a point 33° 55.3650' N – 78° 13.8500' W;
- (13) Saucepan Creek - all waters north of a line beginning on the west shore at a point 33° 54.6290' N – 78° 22.9170' W; running northeasterly to the east shore to a point 33° 54.6550' N – 78° 22.8670' W; and
- ~~(10)~~(14) Davis Creek - all waters east of a line beginning on Horse Island at a point 33° 55.0160' N – 78° 12.7380' W; running southerly to Oak Island to a point 33° 54.9190' N – 78° 12.7170' W; continuing upstream to the primary nursery line and Davis Canal, all waters southeast of a line beginning on Pinner Point at a point 33° 55.2930' N – 78° 11.6390' W; running southwesterly across the mouth of Davis Canal to the spoil island at the southwest intersection of the ~~IWW~~-Intracoastal Waterway and Davis Canal to a point 33° 55.2690' N – 78° 11.6550' W.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1996; March 1, 1994;  
Recodified from 15A NCAC 3R .0004 Eff. December 17, 1996;  
Amended Eff. April 1, 2021; April 1, 2011; August 1, 2004; May 1, 1997.*

Options 2-4:

**15A NCAC 03R .0105 SPECIAL SECONDARY NURSERY AREAS**

The special secondary nursery areas referenced in 15A NCAC 03N .0105(b) are designated in the following coastal water areas:

- (1) Roanoke Sound:
- (a) Outer Shallowbag Bay - west of a line beginning on Baum Point at a point 35° 55.1461' N – 75° 39.5618' W; running southeasterly to Ballast Point to a point 35° 54.6250' N – 75° 38.8656' W; including the canal on the southeast shore of Shallowbag Bay; and
- (b) Kitty Hawk Bay/Buzzard Bay - within the area designated by a line beginning at a point on the east shore of ~~Collington~~-Colington Creek at a point 36° 02.4360' N – 75° 42.3189' W; running westerly to a point 36° 02.6630' N – 75° 41.4102' W; running along the shoreline to a point 36° 02.3264' N – 75° 42.3889' W; running southwesterly to a point 36° 02.1483' N – 75° 42.4329' W; running along the shoreline to a point 36° 01.6736' N – 75° 42.5313' W; running southwesterly to a point 36° 01.5704' N – 75° 42.5899' W; running along the shoreline to a point 36° 00.9162' N – 75° 42.2035' W; running southeasterly to a point 36° 00.8253' N – 75° 42.0886' W; running along the shoreline to a point 35° 59.9886' N – 75° 41.7284' W; running southwesterly to a point 35° 59.9597' N – 75° 41.7682' W; running along the shoreline to the mouth of Buzzard Bay to a point 35° 59.6480' N – 75° 32.9906' W; running easterly to Mann Point to a point 35° 59.4171' N – 75° 32.7361' W; running northerly along the shoreline to the point of beginning;
- ~~(2) In the Pamlico and Pungo rivers Area:~~
- ~~(a) Pungo Creek west of a line beginning on Persimmon Tree Point at a point 35° 30.7633' N – 76° 38.2831' W; running southwesterly to Windmill Point to a point 35° 31.1546' N – 76° 37.7590' W;~~
- ~~(b) Seranton Creek south and east of a line beginning on the west shore at a point 35° 30.6810' N – 76° 28.3435' W; running easterly to the east shore to a point 35° 30.7075' N – 76° 28.6766' W;~~
- ~~(c) Slade Creek east of a line beginning on the west shore at a point 35° 27.8879' N – 76° 32.9906' W; running southeasterly to the east shore to a point 35° 27.6510' N – 76° 32.7361' W;~~

- (d) ~~South Creek west of a line beginning on Hickory Point at a point 35° 21.7385' N 76° 41.5907' W; running southerly to Fork Point to a point 35° 20.7534' N 76° 41.7870' W; and~~
- (e) ~~Bond Creek/Muddy Creek south of a line beginning on Fork Point 35° 20.7534' N 76° 41.7870' W; running southeasterly to Gum Point to a point 35° 20.5632' N 76° 41.4645' W;~~
- (3)(2) ~~In~~ in the West Bay Area:
- (a) West Thorofare Bay - south of a line beginning on the west shore at a point 34° 57.2199' N – 76° 24.0947' W; running easterly to the east shore to a point 34° 57.4871' N – 76° 23.0737' W;
- (b) Long Bay-Ditch Bay - west of a line beginning on the north shore of Ditch Bay at a point 34° 57.9388' N – 76° 27.0781' W; running southwesterly to the south shore of Ditch Bay to a point 34° 57.2120' N – 76° 27.2185' W; then south of a line running southeasterly to the east shore of Long Bay to a point 34° 56.7633' N – 76° 26.3927' W; and
- (c) Turnagain Bay - south of a line beginning on the west shore at a point 34° 59.4065' N – 76° 30.1906' W; running easterly to the east shore to a point 34° 59.5668' N – 76° 29.3557' W;
- (4)(3) ~~In~~ in the Core Sound Area:
- (a) Cedar Island Bay - northwest of a line beginning near the gun club dock at a point 34° 58.7203' N – 76° 15.9645' W; running northeasterly to the south shore to a point 34° 57.7690' N – 76° 16.8781' W;
- (b) Thorofare Bay-Barry Bay - northwest of a line beginning on Rumley Hammock at a point 34° 55.4853' N – 76° 18.2487' W; running northeasterly to Hall Point to a point 34° 54.4227' N – 76° 19.1908' W;
- (c) Nelson Bay - northwest of a line beginning on the west shore of Nelson Bay at a point 34° 51.1353' N – 76° 24.5866' W; running northeasterly to Drum Point to a point 34° 51.6417' N – 76° 23.7620' W;
- (d) Brett Bay - north of a line beginning on the west shore at a point 34° 49.4019' N – 76° 26.0227' W; running easterly to Piney Point to a point 34° 49.5799' N – 76° 25.0534' W; and
- (e) Jarrett Bay - north of a line beginning on the west shore near Old Chimney at a point 34° 45.5743' N – 76° 30.0076' W; running easterly to a point east of Davis Island 34° 45.8325' N – 76° 28.7955' W;
- (5)(4) ~~In~~ in the North River Area:
- (a) North River - north of a line beginning on the west shore at a point 34° 46.0383' N – 76° 37.0633' W; running easterly to a point on the east shore 34° 46.2667' N – 76° 35.4933' W; and
- (b) Ward Creek - east of a line beginning on the north shore at a point 34° 46.2667' N – 76° 35.4933' W; running southerly to the south shore to a point 34° 45.4517' N – 76° 35.1767' W;
- (6) ~~Newport River west of a line beginning near Penn Point on the south shore at a point 34° 45.6960' N 76° 43.5180' W; running northeasterly to the north shore to a point 34° 46.8490' N 76° 43.3296' W;~~
- (7)(5) New River - all waters upstream of a line beginning on the north side of the N.C. Highway 172 Bridge at a point 34° 34.7680' N – 77° 23.9940' W; running southerly to the south side of the bridge at a point 34° 34.6000' N – 77° 23.9710' W;
- (8)(6) Chadwick Bay - all waters west of a line beginning on the northeast side of Chadwick Bay at a point 34° 32.5630' N – 77° 21.6280' W; running southeasterly to a point near Marker "6" at 34° 32.4180' N – 77° 21.6080' W; running westerly to Roses Point at a point 34° 32.2240' N – 77° 22.2880' W; following the shoreline in Fullard Creek to a point 34° 32.0340' N – 77° 22.7160' W; running northwesterly to a point 34° 32.2210' N – 77° 22.8080' W; following the shoreline to the west point of Bump's Creek at a point 34° 32.3430' N – 77° 22.4570' W; running northeasterly to the east shore to a point 34° 32.4400' N – 77° 22.3830' W; following the shoreline of Chadwick Bay back to the point of origin; and
- (9)(7) Intracoastal Waterway - all waters in the ~~IWW~~ Intracoastal Waterway maintained channel from a point near Marker "17" north of Alligator Bay 34° 30.7930' N – 77° 23.1290' W; to a point near Marker "49" at Morris Landing at a point 34° 28.0820' N – 77° 30.4710' W; and all waters in the ~~IWW~~ Intracoastal Waterway maintained channel and 100 feet on either side from Marker "49" to the N.C. Highway 50-210 Bridge at Surf City; City.
- (10) ~~Cape Fear River all waters bounded by a line beginning on the south side of the Spoil Island at the intersection of the IWW and the Cape Fear River ship channel at a point 34° 01.5780' N 77° 56.0010' W; running easterly to the east shore of the Cape Fear River to a point 34° 01.7230' N 77° 55.1010' W; running southerly and bounded by the shoreline to the Ferry Slip at Federal Point at a point 33° 57.8080' N 77°~~

- ~~56.4120' W; running northerly to Bird Island to a point 33° 58.3870' N 77° 56.5780' W; running northerly along the west shoreline of Bird Island and the Cape Fear River spoil islands back to point of origin;~~
- (11) ~~Lockwood Folly River all waters north of a line beginning on Howells Point at a point 33° 55.3680' N – 78° 12.7930' W and running in a westerly direction along the IWW near IWW Marker "46" to a point 33° 55.3650' N – 78° 13.8500' W; and~~
- (12) ~~Saucepan Creek all waters north of a line beginning on the west shore at a point 33° 54.6290' N – 78° 22.9170' W; running northeasterly to the east shore to a point 33° 54.6550' N – 78° 22.8670' W.~~

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;  
 Eff. January 1, 1991;  
 Amended Eff. March 1, 1996; March 1, 1994;  
 Recodified from 15A NCAC 3R .0005 Eff. December 17, 1996;  
 Amended Eff. April 1, 2011; August 1, 2004; May 1, 1997;  
 Readopted Eff. April 1, 2021.*

Option 4:

**15A NCAC 03R .0106 TRAWL NETS PROHIBITED**

The trawl net prohibited areas referenced in 15A NCAC 03J .0104 (b)(4) are delineated in the following coastal water areas:

- (1) In Pamlico, Core and Back sounds - within the area described by a line beginning at a point 35° 43.7457' N – 75° 30.7014' W on the south shore of Eagles Nest Bay on Pea Island; running westerly to a point 35° 42.9500' N – 75° 34.1500' W; running southerly to a point 35° 39.3500' N – 75° 34.4000' W; running southeasterly to a point 35° 35.8931' N – 75° 31.1514' W in Chicamacomico Channel near Beacon "ICC"; running southerly to a point 35° 28.5610' N – 75° 31.5825' W on Gull Island; running southwestly to a point 35° 22.8671' N – 75° 33.5851' W in Avon Channel near Beacon "1"; running southwestly to a point 35° 18.9603' N – 75° 36.0817' W in Cape Channel near Beacon "2"; running westerly to a point 35° 16.7588' N – 75° 44.2554' W in Rollinson Channel near Beacon "42RC"; running southwestly to a point 35° 14.0337' N – 75° 45.9643' W southwest of Oliver Reef near the quick-flashing beacon; running westerly to a point 35° 09.3650' N – 76° 00.6377' W in Big Foot Slough Channel near Beacon "14BF"; running southwestly to a point 35° 08.4523' N – 76° 02.6651' W in Nine Foot Shoal Channel near Beacon "9"; running westerly to a point 35° 07.1000' N – 76° 06.9000' W; running southwestly to a point 35° 01.4985' N – 76° 11.4353' W near Beacon "HL"; running southwestly to a point 35° 00.2728' N – 76° 12.1903' W near Beacon "2CS"; "1CS"; running southerly to a point 34° 59.5027' N – 76° 12.3204' W in Wainwright Channel immediately east of the northern tip of Wainwright Island; running easterly to a point 34° 58.6760' N – 76° 12.4164' W; running southerly to a point 34° 56.6697' N – 76° 13.6052' W near Marker "15"; running southwestly to a point 34° 54.1584' N – 76° 16.9016' W; running southwestly to a point 34° 52.1484' N – 76° 19.2607' W; running southwestly to a point 34° 51.0617' N – 76° 21.0449' W; running southwestly to a point 34° 48.3137' N – 76° 24.3717' W; running southwestly to a point 34° 46.3739' N – 76° 26.1526' W; running southwestly to a point 34° 44.5795' N – 76° 27.5136' W; running southwestly to a point 34° 43.4895' N – 76° 28.9411' W near Beacon "37A"; running southwestly to a point 34° 40.4500' N – 76° 30.6833' W; running westerly to a point 34° 40.7061' N – 76° 31.5893' W near Beacon "35" in Back Sound; running westerly to a point 34° 41.3178' N – 76° 33.8092' W near Buoy "3"; running southwestly to a point 34° 39.6601' N – 76° 34.4078' W on Shackelford Banks; running easterly and northeasterly along the shoreline and across Barden Inlet following the COLREGS Demarcation line; then running northerly along the shoreline across the inlets following the COLREGS Demarcation line up the Outer Banks to Eagles Nest Bay at the point of beginning.
- (2) In Northern Pamlico Sound, Stumpy Point Bay - north of a line beginning at a point 35° 40.9719' N – 75° 44.4213' W on Drain Point; running westerly to a point 35° 40.6550' N – 75° 45.6869' W on Kazer Point;
- (3) In the Pamlico River area, lower Goose Creek - south of a line beginning at a point 35° 18.2676' N – 76° 37.4706' W on the north shore of Snode Creek; running easterly to a point 35° 18.1660' N – 76° 36.9095' W on Store Point;
- (4) Pungo Creek - west of a line beginning on Persimmon Tree Point at a point 35° 30.7633' N – 76° 38.2831' W; running southwestly to Windmill Point to a point 35° 31.1546' N – 76° 37.7590' W;
- (5) Scranton Creek - south and east of a line beginning on the west shore at a point 35° 30.6810' N – 76° 28.3435' W; running easterly to the east shore to a point 35° 30.7075' N – 76° 28.6766' W;



- (6) Slade Creek - east of a line beginning on the west shore at a point 35° 27.8879' N – 76° 32.9906' W; running southeasterly to the east shore to a point 35° 27.6510' N – 76° 32.7361' W;
- (7) South Creek - west of a line beginning on Hickory Point at a point 35° 21.7385' N – 76° 41.5907' W; running southerly to Fork Point to a point 35° 20.7534' N – 76° 41.7870' W;
- (8) Bond Creek/Muddy Creek - south of a line beginning on Fork Point at a point 35° 20.7534' N – 76° 41.7870' W; running southeasterly to Gum Point to a point 35° 20.5632' N – 76° 41.4645' W;
- (4)(9) In the Bay River Area:
- (a) In Dump Creek - north of a line beginning at a point 35° 11.6666' N – 76° 33.4207' W on the west shore; running southeasterly to a point 35° 11.3926' N – 76° 32.8993' W on the east shore;
- (b) In Rockhole Bay - north of a line beginning at a point 35° 11.3926' N – 76° 32.8993' W on the west shore; running southeasterly to a point 35° 11.1321' N – 76° 32.1360' W on the east shore;
- (c) In Vandemere Creek - north of a line beginning at a point 35° 11.2681' N – 76° 39.5220' W on the west shore; running southerly to a point 35° 11.0879' N – 76° 39.3200' W on the east shore;
- (d) In Cedar Creek - west of a line beginning at a point 35° 11.2681' N – 76° 39.5220' W on the north shore; running southwestwesterly to a point 35° 11.1033' N – 76° 39.7321' W on the south shore of an unnamed tributary;
- (e) In Chapel Creek - north of a line beginning at a point 35° 08.6768' N – 76° 42.7985' W on the west shore; running easterly to a point 35° 08.7677' N – 76° 42.3604' W on the east shore;
- (f) In Upper Bay River - west of a line beginning at a point 35° 08.6704' N – 76° 43.0836' W on the north shore; running southwestwesterly to a point 35° 08.4590' N – 76° 43.1930' W on the south shore;
- (5)(10) In the Neuse River Area, Pierce Creek - west of a line beginning at a point 35° 02.4336' N – 76° 39.7653' W on the north shore; running southerly to a point 35° 02.3767' N – 76° 39.7876' W on the south shore;
- (6)(11) In Cape Lookout Bight, all of Cape Lookout Bight - southwest of the COLREGS Demarcation line at Barden Inlet to the northeastern most point of Power Squadron Spit; running northeasterly to a point 34° 38.6150' N – 76° 32.7434' W on Shackleford Banks;
- (7)(12) Newport River - all waters upstream of a line beginning at a point 34° 45.6960' N – 76° 43.5180' W near Penn Point; running northeasterly to a point 34° 46.5733' N – 76° 42.6350' W at Hardesty Farms subdivision;
- (8)(13) White Oak River - all waters upstream of a line beginning at a point on the west side of the river 34° 43.3425' N – 77° 07.2209' W; running northerly to a point 34° 43.6445' N – 77° 07.3177' W in the river above Cahoon's Slough; running easterly to a point 34° 43.5588' N – 77° 06.6206' W at Hancock Point;
- (9)(14) Intracoastal Waterway - all waters in the maintained channel from a point near Marker #105 34° 18.8167' N – 77° 42.8833' W running southerly to a point at the Wrightsville Beach Drawbridge 34° 12.9500' N – 77° 47.9833' W;
- (10)(15) Cape Fear River - all waters bounded by a line beginning on the south side of the Spoil Island at the intersection of the Intracoastal Waterway and the Cape Fear River ship channel at a point 34° 01.5780' N – 77° 56.0010' W; running easterly to the east shore of the Cape Fear River to a point 34° 01.7230' N – 77° 55.1010' W; running southerly and bounded by the shoreline to the Ferry Slip at Federal Point at a point 33° 57.8080' N – 77° 56.4120' W; running northerly to Bird Island to a point 33° 58.3870' N – 77° 56.5780' W; running northerly along the west shoreline of Bird Island and the Cape Fear River spoil islands back to point of origin; and all waters bounded by a line beginning at a point near Fort Fisher 33° 57.5333' N – 77° 56.9333' W running southwestwesterly along The Rocks to a point 33° 55.1833' N – 77° 58.0833' W running southeasterly and southerly along the shorelines of Second and Buzzard's Bays to a point 33° 53.0333' N – 77° 57.9333' W running ~~northeasterly and northwesterly~~ northeasterly and northwesterly along the barrier island shorelines of Buzzard's Bay, Second Bay and The Basin back to the point of ~~origin;~~ origin;
- (11)(16) Cape Creek - all waters upstream of a line beginning at a point on the north shore 33° 53.6167' N – 77° 59.3333' W running southwestwesterly to a point on the south shore 33° 53.3667' N – 77° 59.4667' W; ~~and~~
- (12)(17) Bald Head Creek - all waters upstream of a line beginning at a point on the west shore 33° 52.8667' N – 77° 59.8000' W running easterly to a point on the east shore 33° 52.8667' N – 77° 59.7167' W; ~~W; W;~~
- (18) Lockwood Folly River - all waters north of a line beginning on Howells Point at a point 33° 55.3680' N – 78° 12.7930' W and running in a westerly direction along the Intracoastal Waterway near Intracoastal Waterway Marker "46" to a point 33° 55.3650' N – 78° 13.8500' W; and
- (19) Saucepan Creek - all waters north of a line beginning on the west shore at a point 33° 54.6290' N – 78° 22.9170' W; running northeasterly to the east shore to a point 33° 54.6550' N – 78° 22.8670' W.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;  
Eff. January 1, 1991;  
Amended Eff. March 1, 1994;  
Recodified from 15A NCAC 3R .0006 Eff. December 17, 1996;  
Amended Eff. April 1, 2021; July 1, 2006; August 1, 2004; April 1, 1997.*

Option 3:

**15A NCAC 03R .0112 ATTENDED GILL NET AREAS**

- (a) The attended gill net areas referenced in 15A NCAC 03J .0103(g) are delineated in the following areas:
- (1) Pamlico River, west of a line beginning at a point 35° 27.5768' N – 76° 54.3612' W on Ragged Point; running southwesterly to a point 35° 26.9176' N – 76° 55.5253' W on Mauls Point;
  - (2) within 200 yards of the shoreline in Pamlico River and its tributaries east of a line beginning at a point 35° 27.5768' N – 76° 54.3612' W on Ragged Point; running southwesterly to a point 35° 26.9176' N – 76° 55.5253' W on Mauls Point; and west of a line beginning at a point 35° 22.3622' N – 76° 28.2032' W on Roos Point; running southerly to a point at 35° 18.5906' N – 76° 28.9530' W on Pamlico Point;
  - (3) Pungo River, east of the northern portion of the Pantego Creek breakwater and a line beginning at a point 35° 31.7198' N – 76° 36.9195' W on the northern side of the breakwater near Tooleys Point; running southeasterly to a point 35° 30.5312' N – 76° 35.1594' W on Durants Point;
  - (4) within 200 yards of the shoreline in Pungo River and its tributaries west of the northern portion of the Pantego Creek breakwater and a line beginning at a point 35° 31.7198' N – 76° 36.9195' W on the northern side of the breakwater near Tooleys Point; running southeasterly to a point 35° 30.5312' N – 76° 35.1594' W on Durants Point; and west of a line beginning at a point 35° 22.3622' N – 76° 28.2032' W on Roos Point; running southerly to a point at 35° 18.5906' N – 76° 28.9530' W on Pamlico Point;
  - (5) Neuse River and its tributaries northwest of the Highway 17 highrise bridge;
  - (6) Trent River and its tributaries; and
  - (7) within 200 yards of the shoreline in Neuse River and its tributaries east of the Highway 17 highrise bridge and south and west of a line beginning on Maw Point at a point 35° 09.0407' N – 76° 32.2348' W; running southeasterly near the Maw Point Shoal Marker "2" to a point 35° 08.1250' N – 76° 30.8532' W; running southeasterly near the Neuse River Entrance Marker "NR" to a point 35° 06.6212' N – 76° 28.5383' W; running southerly to a point 35° 04.4833' N – 76° 28.0000' W near Point of Marsh in Neuse River. In Core and Clubfoot creeks, the Highway 101 Bridge shall constitute the attendance boundary.
- (b) The attended gill net areas referenced in 15A NCAC 03J .0103(h) are delineated in the following Internal Coastal Waters and Joint Fishing Waters of the State south of a line beginning on Roanoke Marshes Point at a point 35° 48.3693' N – 75° 43.7232' W; running southeasterly to a point 35° 44.1710' N – 75° 31.0520' W on Eagles Nest Bay to the South Carolina state line:
- (1) all primary nursery areas described in 15A NCAC 03R .0103, all permanent secondary nursery areas described in ~~15A NCAC 03R .0104, 15A NCAC 03R .0104 except (3)(b), (3)(c), (3)(d), (3)(h), (3)(i), (5), (11), (12), and (13),~~ and no-trawl areas described in 15A NCAC 03R .0106(2), (4), (5), (8), (10), (11), and (12);
  - (2) in the area along the Outer Banks, beginning at a point 35° 44.1710' N – 75° 31.0520' W on Eagles Nest Bay; running northwesterly to a point 35° 45.1833' N – 75° 34.1000' W west of Pea Island; running southerly to a point 35° 40.0000' N – 75° 32.8666' W west of Beach Slough; running southeasterly and passing near Beacon "2" in ~~Chicamomico~~-Chicamamico Channel to a point 35° 35.0000' N – 75° 29.8833' W west of the Rodanthe Pier; running southwesterly to a point 35° 28.4500' N – 75° 31.3500' W on Gull Island; running southerly to a point 35° 22.3000' N – 75° 33.2000' W near Beacon "2" in Avon Channel ; running southwesterly to a point 35° 19.0333' N – 75° 36.3166' W near Beacon "2" in Cape Channel; running southwesterly to a point 35° 15.5000' N – 75° 43.4000' W near Beacon "36" in Rollinson Channel; running southeasterly to a point 35° 14.9386' N – 75° 42.9968' W near Beacon "35" in Rollinson Channel; running southwesterly to a point 35° 14.0377' N – 75° 45.9644' W near a "Danger" Beacon northwest of Austin Reef; running southwesterly to a point 35° 11.4833' N – 75° 51.0833' W on Legged Lump; running southeasterly to a point 35° 10.9666' N – 75° 49.7166' W south of Legged Lump; running southwesterly to a point 35° 09.3000' N – 75° 54.8166' W near the west end of Clarks Reef; running westerly to a point 35° 08.4333' N – 76° 02.5000' W near Nine Foot Shoal Channel; running southerly to a point 35° 06.4000' N – 76° 04.3333'

- W near North Rock; running southwesterly to a point 35° 01.5833' N – 76° 11.4500' W near Beacon "HL"; running southerly to a point 35° 00.2666' N – 76° 12.2000' W; running southerly to a point 34° 59.4664' N – 76° 12.4859' W on Wainwright Island; running easterly to a point 34° 58.7853' N – 76° 09.8922' W on Core Banks; running northerly along the shoreline and across the inlets following the COLREGS Demarcation Line to the point of beginning;
- (3) in Core and Back sounds, beginning at a point 34° 58.7853' N – 76° 09.8922' W on Core Banks; running northwesterly to a point 34° 59.4664' N – 76° 12.4859' W on Wainwright Island; running southerly to a point 34° 58.8000' N – 76° 12.5166' W; running southeasterly to a point 34° 58.1833' N – 76° 12.3000' W; running southwesterly to a point 34° 56.4833' N – 76° 13.2833' W; running westerly to a point 34° 56.5500' N – 76° 13.6166' W; running southwesterly to a point 34° 53.5500' N – 76° 16.4166' W; running northwesterly to a point 34° 53.9166' N – 76° 17.1166' W; running southerly to a point 34° 53.4166' N – 76° 17.3500' W; running southwesterly to a point 34° 51.0617' N – 76° 21.0449' W; running southwesterly to a point 34° 48.3137' N – 76° 24.3717' W; running southwesterly to a point 34° 46.3739' N – 76° 26.1526' W; running southwesterly to a point 34° 44.5795' N – 76° 27.5136' W; running southwesterly to a point 34° 43.4895' N – 76° 28.9411' W near Beacon "37A"; running southwesterly to a point 34° 40.4500' N – 76° 30.6833' W; running westerly to a point 34° 40.7061' N – 76° 31.5893' W near Beacon "35" in Back Sound; running westerly to a point 34° 41.3178' N – 76° 33.8092' W near Buoy "3"; running southwesterly to a point 34° 39.6601' N – 76° 34.4078' W on Shackleford Banks; running easterly and northeasterly along the shoreline and across the inlets following the COLREGS Demarcation lines to the point of beginning;
- (4) within 200 yards of the shoreline in the area upstream of the 76° 28.0000' W longitude line beginning at a point 35° 22.3752' N – 76° 28.0000' W near Roos Point in Pamlico River; running southeasterly to a point 35° 04.4833' N – 76° 28.0000' W near Point of Marsh in Neuse River; and
- (5) within 50 yards of the shoreline east of the 76° 28.0000' W longitude line beginning at a point 35° 22.3752' N – 76° 28.0000' W near Roos Point in Pamlico River; running southeasterly to a point 35° 04.4833' N – 76° 28.0000' W near Point of Marsh in Neuse River, except from October 1 through November 30, south and east of Highway 12 in Carteret County and south of a line from a point 34° 59.7942' N – 76° 14.6514' W on Camp Point; running easterly to a point at 34° 58.7853' N – 76° 09.8922' W on Core Banks; to the South Carolina state Line.

*History Note: Authority G.S. 113-134; 113-173; 113-182; 143B-289.52; Eff. August 1, 2004; Amended Eff. April 1, 2016; June 1, 2013; April 1, 2011; April 1, 2009; Readopted Eff. April 1, 2019; Amended Eff. April 1, 2021.*

## VIII. PROPOSED MANAGEMENT OPTIONS

- 1) *Status quo* (keep all areas classified as special secondary nursery areas and continue to keep them closed to shrimp trawling)
  - + No rule changes are needed
  - + Implements actions of Amendment 1 to the Shrimp FMP
  - + Does not impact other FMPs
  - + Does not impact other fisheries
  - + No impacts to commercial shrimp fishermen since the areas have not been opened in recent years
  - Inconsistencies between current management practices and area designations for the Newport, Cape Fear, and Lockwood Folly rivers and Pungo, Scranton, Slade, South and Bond/Muddy creeks SSNAs remain
- 2) Change the designation of special secondary nursery areas that have not been opened to trawling in many years to permanent secondary nursery areas which would make them subject to gill net attendance under 03R .0112(b)(1).
  - + Eliminate bycatch from shrimp trawls in these SSNAs
  - + Protects habitat from bottom disturbing gear
  - + Implements actions of Amendment 1 to the Shrimp FMP

- + No impact to commercial shrimp fishermen since the areas have not been opened in recent years
  - +/- Gill net attendance required from May 1 through November 30
  - Nursery rule changes are needed
  - Eliminates crab trawling
- 3) Change the designation of special secondary nursery areas that have not been opened to trawling in many years to permanent secondary nursery areas and exempt them from 03R .0112(b)(1).
- + Eliminate bycatch from shrimp trawls in these SSNAs
  - + Protects habitat from bottom disturbing gear
  - + Implements actions of Amendment 1 to the Shrimp FMP
  - + No impact to commercial shrimp fishermen since the areas have not been opened in recent years
  - Both nursery and gill net attendance rule changes are needed
  - Eliminates crab trawling
- 4) Change the designation of special secondary nursery areas that have not been opened in many years to trawling to permanent trawl net prohibited area (15A NCAC 03R 0106).
- + Eliminate bycatch from shrimp trawls in SSNAs
  - + Protects habitat from bottom disturbing gear
  - + Eliminates the need for gill net attendance
  - + Implements actions of Amendment 1 to the Shrimp FMP
  - + No impact to commercial fishermen since the areas have not been opened in recent years
  - Nursery and TNPA rule changes are needed
  - Eliminates crab trawling
  - Areas would lose “nursery” designation

## VIII. RECOMMENDATION

### **NCDMF:**

Change the designation of special secondary nursery areas that have not been opened to trawling in many years to permanent secondary nursery areas which would make them subject to additional gill net attendance under 03R .0112(b)(1). [Option 2]

### **Habitat and Water Quality Advisory Committee:**

Change the designation of special secondary nursery areas that have not been opened to trawling in many years to permanent secondary nursery areas which would make them subject to additional gill net attendance under 03R .0112(b)(1). [Option 2]

### **MFC Selected Management Strategy:**

## IV. REFERENCES CITED

NCDEQ (North Carolina Department of Environmental Quality). 2016. North Carolina Coastal Habitat Protection Plan Source Document. NC Division of Marine Fisheries, Morehead City, NC, 487 p.

NCDMF (North Carolina Division of Marine Fisheries). 2001. North Carolina Red Drum Fishery Management Plan. North Carolina Department of Environment and Natural Resources. North Carolina Division of Marine Fisheries. Morehead City, NC, 111 p.

NCDMF. 2006. North Carolina Fishery Management Plan for Shrimp. North Carolina Department of Environment and Natural Resources, Division of Marine Fisheries, Morehead City, NC, 390 p.

NCDMF. 2015a. North Carolina Shrimp Fishery Management Plan, Amendment 1. North Carolina Department of Environment and Natural Resources, Division of Marine Fisheries, Morehead City, NC. 514 p.

NCDMF. 2015b. North Carolina Striped Mullet Fishery Management Plan, Amendment 1. North Carolina Department of Environment and Natural Resources, Division of Marine Fisheries, Morehead City, NC. 388 p.

NCDMF. 2019. Draft North Carolina Blue Crab (*Callinectes sapidus*) Fishery Management Plan Amendment 3. North Carolina Department of Environment Quality. North Carolina Division of Marine Fisheries. Morehead City, NC, 239 p.

SAFMC (South Atlantic Fishery Management Council). 1998. Final habitat plan for the south Atlantic region: essential fish habitat requirements for fishery management plans of the South Atlantic Fishery Management Council. SAFMC, Charleston, SC, 457 p.

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Jan. 27, 2020

**Notice of Text Attachment**

Option 2

**15A NCAC 03R .0104 PERMANENT SECONDARY NURSERY AREAS**

**15A NCAC 03R .0105 SPECIAL SECONDARY NURSERY AREAS**

In accordance with the North Carolina Shrimp Fishery Management Plan Amendment 1, proposed amendments change the designation of special secondary nursery areas that have not recently been opened to trawling to permanent secondary nursery areas and subject these areas to gill net attendance under 15A NCAC 03R .0112(b)(1).

Option 3

**15A NCAC 03R .0104 PERMANENT SECONDARY NURSERY AREAS**

**15A NCAC 03R .0105 SPECIAL SECONDARY NURSERY AREAS**

**15A NCAC 03R .0112 ATTENDED GILL NET AREAS**

In accordance with the North Carolina Shrimp Fishery Management Plan Amendment 1, proposed amendments change the designation of special secondary nursery areas that have not recently been opened to trawling to permanent secondary nursery areas and exempt them from the attendance requirements of 15A NCAC 03R .0112(b)(1), but leave them subject to the attendance requirements in either 15A NCAC 03R .0112(a)(2), (a)(3), (a)(4), or (b)(5), depending on their location.

Option 4

**15A NCAC 03R .0105 SPECIAL SECONDARY NURSERY AREAS**

**15A NCAC 03R .0106 TRAWL NETS PROHIBITED**

In accordance with the North Carolina Shrimp Fishery Management Plan Amendment 1, proposed amendments change the designation of special secondary nursery areas that have not recently been opened to trawling to permanent trawl net prohibited areas.

**MFC Rulebook Index Worksheet**

Rule	Subject	Index Entry ( <b>Bold</b> major headings)	Add/Delete/ No Change
TBD			

**Ancillary Items:** TBD

## **OYSTER SANCTUARY RULE CHANGES ISSUE PAPER**

**April 10, 2019**

### **I. ISSUE**

Rule amendments are proposed to add the boundaries of five Oyster Sanctuaries (Long Shoal, Little Creek, Pea Island, Raccoon Island, and Swan Island) and update boundaries for three existing sanctuaries (Neuse River, West Bluff, and Gibbs Shoal). Coordinates delineating boundaries for two sanctuaries (Ocracoke and Clam Shoal) are proposed to be removed from rule.

### **II. ORIGINATION**

North Carolina Division of Marine Fisheries (DMF) Habitat and Enhancement Section

### **III. BACKGROUND**

Marine protected areas (MPAs) are a powerful management approach for restoration and conservation of marine species and ecosystems. In general, the abundance and size of individuals within MPAs is often significantly greater and larger, respectively, than outside MPAs, which can also lead to a “spill-over effect” of larvae and individuals from inside to outside the MPA (Gell and Roberts 2002, Halpern 2003, Sobel and Dahlgren 2004). In other words, fish are generally larger and more abundant in MPAs. In pursuit of shellfish rehabilitation, the Division of Marine Fisheries has applied the MPA model through its Oyster Sanctuary Program. This program is responsible for creating artificial reef habitat, designed to support healthy and abundant oyster populations throughout Pamlico Sound and its tributaries. Once built, a reef site is protected from harvest to preserve broodstock and is called an “oyster sanctuary.” With healthy and abundant broodstock populations inside sanctuary boundaries, these sites continue to serve their intended function by supplying oyster larvae to other reefs nearby.

It is important to distinguish that while all artificial reef habitat is considered “reef,” not all reefs are considered “sanctuary.” The term sanctuary refers only to reefs protected from oyster harvest in Marine Fisheries Commission (MFC) rule or by proclamation. It is also important to consider that the created habitat within sanctuary or artificial reef boundaries always exists as a collection of separate reef habitat patches; see figures 2-6 in Section VI. for examples of this. Therefore, sanctuaries and artificial reefs are sometimes referred to as reef sites. In most cases concerning reef sites managed by the Oyster Sanctuary Program, the entire reef site authorized by state and federal permits is protected from oyster harvest. Therefore, reef, sanctuary, and reef site are often used interchangeably. When describing area as can be seen in Tables 1 and 2 (see section VI.), managers typically refer to boundary area as the total sanctuary area (acres) within the boundaries delineated in rule or by proclamation. Habitat footprint area refers to the cumulative total area of reef patches only, not to include unconsolidated soft bottom. For example, in Table 1, the Croatan Sound oyster sanctuary site has 3.10 acres of habitat within the overall boundary of 7.73 acres, meaning 4.63 acres of the site do not have habitat material deposited on them.

The Blue Ribbon Advisory Council on Oysters (BRACO) made the first recommendations concerning the establishment of oyster sanctuaries in North Carolina in 1995. The BRACO recommended the state provide selected areas where wild oyster stocks can adapt to present water quality and disease conditions without being subjected to the additional stress of habitat disturbance and oyster harvest. In addition to providing a sanctuary for oysters, these areas would also provide good nursery habitat for other species increasing their abundance for commercial and recreational fishing. The protected oysters would also provide for increased water filtration reducing turbidity and excess nutrients in the estuary. As part of the recommendation, oyster sanctuaries would be closed to taking of shellfish (oysters, clams, mussels, and scallops) and to bottom disturbing activities such as trawling, long hauling, and dredging for an indefinite period (Frankenberg 1995). DMF developed 10 oyster sanctuaries in Pamlico Sound and its tributaries. These sanctuaries were originally designated as shellfish management areas by proclamation, as authorized by Rule 15A NCAC 03K .0103. For these reef sites to serve their intended management function as oyster broodstock sanctuaries, harvest protections must be applied. As part of the 2008 Oyster Fishery Management Plan Amendment 2, the MFC moved the protection of sanctuaries from proclamation into rules 15A NCAC 03K .0209 and 03R .0117, Oyster Sanctuaries. The Nature Conservancy, National Oceanic and Atmospheric Administration National Estuarine Counsel, Coastal Recreational Fishing License, and other mitigation sources provided funding to expand the Oyster Sanctuary Program. DMF has since constructed five additional sanctuaries, which will increase the amount of broodstock and help answer research needs. These additional sanctuaries are

situated in the Neuse River (Little Creek) and Pamlico Sound (Long Shoal, Raccoon Island, Pea Island, and Swan Island). Under the authority of Rule 15A NCAC 03K .0103, Proclamation SF-6-2013 was issued July 8, 2013 to initially protect Long Shoal and Raccoon Island Oyster Sanctuaries by declaring them shellfish management areas and closing them to all fishing equipment. A proclamation covering these two oyster sanctuaries and the three subsequent sanctuaries that were constructed (Pea Island, Little Creek, and Swan Island) has since been issued (Proclamation SF-2-2019). All five of these sanctuaries would be protected under the proposed rule changes.

The North Carolina General Assembly recognized the continued importance of oyster sanctuaries in the 2014 and 2015 legislative sessions. Session Law 2014-120, Section 44 as amended by Session Law 2015-241, Section 14.9 established the Senator Jean Preston Oyster Sanctuary Network (Figure 1). This was done “to enhance shellfish habitats within the Albemarle and Pamlico Sounds and their tributaries to benefit fisheries, water quality, and the economy. This will be achieved through the establishment of a network of oyster sanctuaries, harvestable enhancement sites, and coordinated support for the development of shellfish aquaculture.” Today DMF maintains and manages 15 oyster sanctuaries in the network, but only 10 of them are currently in the oyster sanctuary rules. The sanctuaries are in Pamlico Sound and its tributaries encompassing 4.59 – 60.30 acres each, totaling 395.44 acres, with over 205,000 tons of material deployed for oyster habitat. (Table 1).



#### IV. AUTHORITY

Authority G.S. 113-134; 113-182; 113-201; 113-204; 143B-289.52  
Session Law 2014-120, Section 44 as amended by Session Law 2015-241, Section 14.9

#### V. DISCUSSION

Rule amendments are proposed to add the boundaries of the five most recently developed Oyster Sanctuaries (Long Shoal, Little Creek, Pea Island, Raccoon Island, and Swan Island) and update boundaries for three existing sanctuaries (Neuse River, West Bluff, and Gibbs Shoal). Boundaries delineating sanctuary area for two reefs (Ocracoke and Clam Shoal) are proposed to be removed from rule.

##### Addition of Five Recently Developed Oyster Sanctuaries

There are presently 10 developed sanctuaries protected by MFC rule (15A NCAC 03K .0209 and 03R .0117), the last of which was added to rule effective April 1, 2011. Since that time, five additional sanctuaries have been developed. These sites are named Long Shoal, Raccoon Island, Pea Island, Little Creek, and Swan Island. For these reef sites to serve their intended management function as oyster broodstock sanctuaries, harvest protections need to be applied. While these sites are currently protected by proclamation, it is proposed to add these five new sites to the existing rule delineating the sanctuary boundaries in permanent rule.

##### Modification of Boundary Coordinates for Three Sites Already in Rule

Further, in an ongoing effort to review oyster sanctuary boundaries post-construction, DMF recently discovered through side-scan imagery that 3 of the 10 sanctuaries (Neuse River, Gibbs, Shoal, and West Bluff) had material slightly outside of their permitted boundaries. This is likely due to construction error or slight movement during material settlement. To prevent this error from occurring during future development, DMF intends to establish a 100-foot buffer of no development for reef construction. The no-development buffer is intended to protect against deployment error and possible material transport over time (Figures 2-4). The Oyster Sanctuary Program has updated the boundary coordinates for these sites to incorporate any material that was found outside of the original depicted sanctuary perimeters. Revisions have already been made to existing reef site permits (state and federal) and now need to be updated in rule for consistency. These changes will delineate all reef site area intended for oyster sanctuary purposes so that protections provided by 15A NCAC 03K .0209 may be accurately applied. In addition, accurately delineated boundaries will help safeguard boaters navigating the area.

##### Removal of Two Non-functioning Sanctuary Sites from Rule

Along with the amendments described above, DMF proposes to remove coordinates delineating boundaries for two sanctuaries, OS-04 (Clam Shoal) and OS-06 (Ocracoke), from rule. These two sites were originally founded by fishing clubs in Hatteras and Ocracoke, for the purpose of recreational hook and line fishing. Following the BRACO's recommendations to establish oyster sanctuaries in 1996, the reef sites were delineated as oyster sanctuaries under 15A NCAC 03R .0117 and thereby protected from oyster harvest under 15A NCAC 03K .0209. In the years following sanctuary delineation, the boundaries of the reef sites were substantially expanded in permit and further developed by the Artificial Reef Program as artificial reefs. The boundaries for sanctuary protections were never expanded at these two sites, therefore only a subsection of each reef site is protected from oyster harvest as described in 15A NCAC 03R .0117 (Figures 5 and 6). Presently, both Ocracoke and Clam Shoal reefs are marked by buoys identifying their outside margins, but do not offer any reference point for where harvest is restricted.

Long term biological evaluation has led to a determination that the Clam Shoal and Ocracoke sites no longer function as biologically productive oyster sanctuaries. The Marine Protected Area/sanctuary model is a management tool whereby small areas of high productivity habitats are protected to support broodstock with high reproductive potential. For oyster restoration, effective sanctuary sites must intrinsically sustain high population densities of adult oysters. DMF maintains a monitoring program to assess the productivity of each sanctuary with a restoration target of 10 oysters/m<sup>2</sup> (Powers et al. 2009). Sanctuaries are expected to maintain oyster densities above this threshold to be considered functioning restoration tools. Under DMF's monitoring, Clam Shoal initially showed promising settlement success similar to other sanctuaries within the Pamlico Sound. By year three, however, Clam Shoal's oyster densities fell well below the threshold of 10 oysters/m<sup>2</sup> and has remained below this threshold since that time. The apparent low oyster densities are indicative of low juvenile oyster recruitment or low survivorship to adulthood. Oyster densities at Ocracoke, identical to Clam Shoal, exhibited an abrupt decline with little evidence of recovery (Figure 7; Z. Knorek, unpublished). Observed population density trends here offer strong evidence that oyster population recovery is unlikely, given relatively unfavorable environmental conditions. Both Clam Shoal and

Ocracoke oyster sanctuaries are unique compared to all others due to their locations in relatively high salinity waters (>16 psu; Figure 8). In this habitat regime, increased diversity and abundance of competing biofouling organisms (barnacles, alga, sponge), shellfish predators (sheepshead, crabs, etc.) and pests (*Cliona* boring sponge) commonly occur and can negatively influence oyster settlement and reef persistence. Given that long term oyster population trends at both Ocracoke and Clam Shoal reefs exhibit extremely low oyster population densities, is it easy to conclude that these sites are not serving their management purpose for oyster restoration. Therefore, it is appropriate for these sites to be considered for removal from the existing oyster sanctuary rule.

While Ocracoke and Clam Shoal, also known as Artificial Reef-298 (AR-298) and AR-296, respectively, are not reasonably considered oyster reefs, it is important to appreciate the habitat value these sites continue to offer. Both reefs function as hard bottom habitat for many other invertebrates and finfish as well as a destination for many anglers along the Outer Banks. These reefs will be included with other reefs as estuarine and oceanic artificial reef rules develop under future rule amendments and in conjunction with proposed Special Management Zone designation.

#### Summary and Implications

Historically, oyster sanctuary site selection leaned heavily on a very limited understanding of oyster habitat suitability and was largely dependent upon where historic oyster reefs once existed. New strategies and techniques used for deployment, as well as new technology for physical and biological monitoring have substantially improved oyster reef enhancement success rates and have reduced errors. With the development of a more modern habitat suitability index (HSI) model which rates areas based on salinity gradient, bottom type, tidal flow, larval transport, wave action, and prevailing wind data as well as historic oyster presence data and input from stakeholders, managers are able to better choose areas to develop as sanctuaries and accurately delineate their boundaries.

The DMF recommends amending North Carolina Marine Fisheries Rule 15A NCAC 03R .0117 by adding boundaries for five additional oyster sanctuaries (Long Shoal, Raccoon Island, Pea Island, Little Creek, and Swan Island) developed since the rule was last amended. The DMF also proposes modified boundaries of three existing sanctuaries (Neuse River, Gibbs Shoal, and West Bluff). Modifications to these sanctuary boundaries are necessary to encompass existing reef material recently discovered outside the present boundaries. Finally, Ocracoke and Clam Shoal sanctuaries are proposed for removal from the rule, considering the apparent lack of existing resource to protect and the unlikely reestablishment of new oyster resource in the future.

While proposed modifications would affect previously reported sanctuary acreage, a net positive effect is realized considering the changes would adopt a substantially greater total area of protected oyster resource and accurately delineate high quality oyster habitat with extreme precision. The proposed modifications align the MFC rules with delineated boundaries in permits, which is essential for state and federal regulatory consistency as well as safe maritime navigation.

Rule 15A NCAC 03R .0117 (1)(c), (1)(d), (1)(i), (1)(j) and (2)(a) show proposed changes to incorporate the boundaries of the new sanctuaries, Pea Island, Long Shoal, Swan Island, Raccoon Island, and Little Creek. The proposed changes in 15A NCAC 03R .0117 (1)(e), (1)(g), and (2)(b) update the boundaries of Gibbs Shoal, West Bluff, and Neuse River sanctuaries. Clam Shoal and Ocracoke are proposed to be deleted from (1). Proposed changes result in a net total increase of ~101 acres of protected oyster sanctuary area (Table 2).

Additional minor changes are proposed to address inconsistencies with organization of the existing rule. The “Croatan Sound area” actually designates the “Croatan Sound” Oyster Sanctuary, which is located in the Pamlico Sound area. As a result, this sanctuary is proposed to be re-numbered in the rule from (1) to (1)(a). Similarly, “Neuse River area” actually designates the “Neuse River” Oyster Sanctuary, so it is proposed to be renumbered from (3) to (2)(b).

#### IV. TABLES AND FIGURES

**Table 1. Oyster Sanctuary Names, Locations, Spatial Extents, and Development.** Reported boundary sizes are calculated on areas bound by delineating coordinates in 15A NCAC 03K .0209. Ocracoke and Clam Shoal sites are substantially larger than what is reported in this table (*see Discussion*). Values for Habitat Footprint and Total Material Deployed are subject to increase over time, as reef enhancement and construction are ongoing.

OS#	Site Name	Latitude	Longitude	Boundary Size (Acres)	Habitat Footprint (Acres)	Total Material Deployed (Tons)
1	Croatan Sound	35° 48.238' N	75° 38.397' W	7.73	3.10	2,093
2	Deep Bay	35° 22.842' N	76° 22.249' W	17.20	4.15	1,749
3	West Bay	34° 58.809' N	76° 21.418' W	6.56	2.27	2,329
4	Clam Shoal	35° 17.334' N	75° 37.325' W	58.12	21.45	38,359
5	Crab Hole	35° 43.592' N	75° 40.629' W	30.52	13.26	36,489
6	Ocracoke	35° 10.723' N	75° 59.743' W	28.05	10.36	15,183
7	Middle Bay	35° 14.137' N	76° 30.255' W	4.59	0.27	900
8	Neuse River	35° 0.433' N	76° 32.005' W	11.21	3.55	7,357
9	West Bluff	35° 18.223' N	76° 10.182' W	29.42	2.82	10,162
10	Gibbs Shoal	35° 27.228' N	75° 56.075' W	54.69	8.19	22,447
11	Long Shoal	35° 33.806' N	75° 49.833' W	10.01	1.13	2,173
12	Raccoon Island	35° 5.422' N	76° 23.471' W	9.97	1.61	1,824
13	Pea Island	35° 39.960' N	75° 36.940' W	46.63	2.62	3,420
14	Little Creek	35° 2.616' N	76° 30.889' W	20.71	6.14	5,700
15	Swan Island	35° 5.551' N	76° 27.134' W	60.30	10.93	55,000
<b>Total</b>				<b>395.44</b>	<b>91.85</b>	<b>205,185</b>

- Sanctuaries (1-10) are under authority of rules 15A NCAC 03K .0209 and 03R .0117.
- Sanctuaries 4 and 6 are proposed for removal from 15A NCAC 03R .0117 and subsequent protections of 15A NCAC 03K .0209
- Sanctuaries (11-12) are under authority of Rule 15A NCAC 03K .0103 via Proclamation SF-2-2019.
- Sanctuaries (13-15) are not yet codified in rule.
- Latitude and longitude points mark the center of each site.

**Table 2: Oyster Sanctuaries with New or Updated Boundaries for Sanctuary Protection in Rule**

OS #	Site Name	Old Boundary (Acres)	Proposed Boundary (Acres)	Difference (Acres)
4	Clam Shoal	58.12	0	-58.12
6	Ocracoke	28.05	0	-28.05
8	Neuse River	5.71	11.21	5.50
9	West Bluff	19.95	29.42	9.47
10	Gibbs Shoal	30.02	54.69	24.67
11	Long Shoal	0	10.01	10.01
12	Raccoon Island	0	9.97	9.97
13	Pea Island	0	46.63	46.63
14	Little Creek	0	20.71	20.71
15	Swan Island	0	60.30	60.30
--	<b>Total</b>	<b>141.85</b>	<b>242.94</b>	<b>101.09</b>

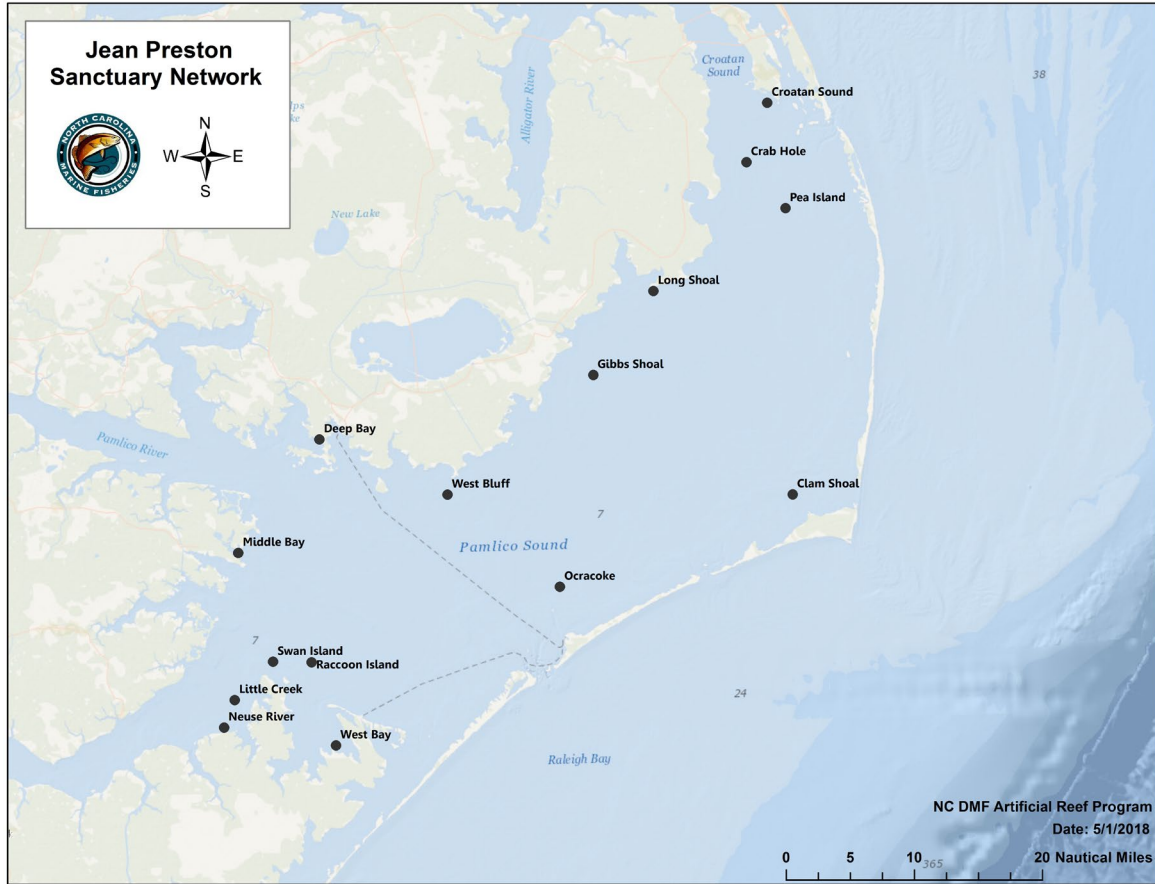


Figure 1. Oyster Sanctuary locations.

# OS-08 Neuse River

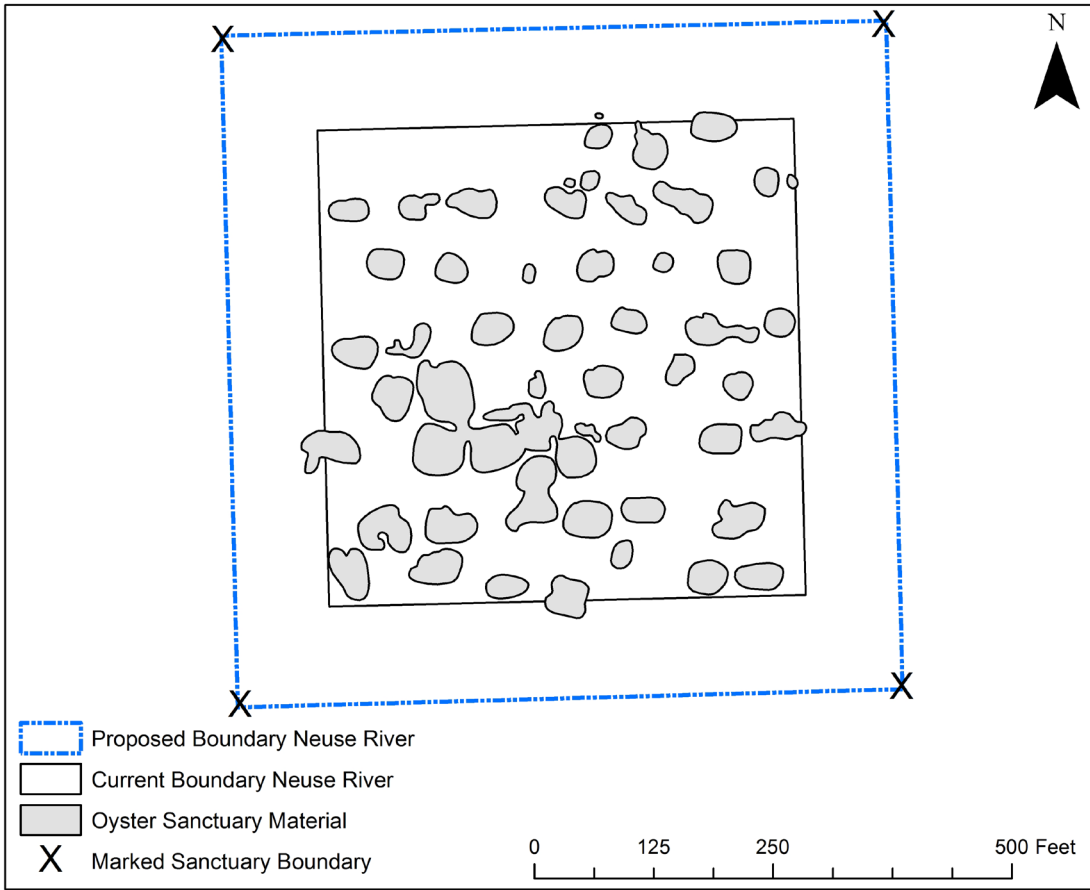


Figure 2. Neuse River Oyster Sanctuary. Proposed boundary marks 100-foot buffer from outermost material.

# OS-09 West Bluff

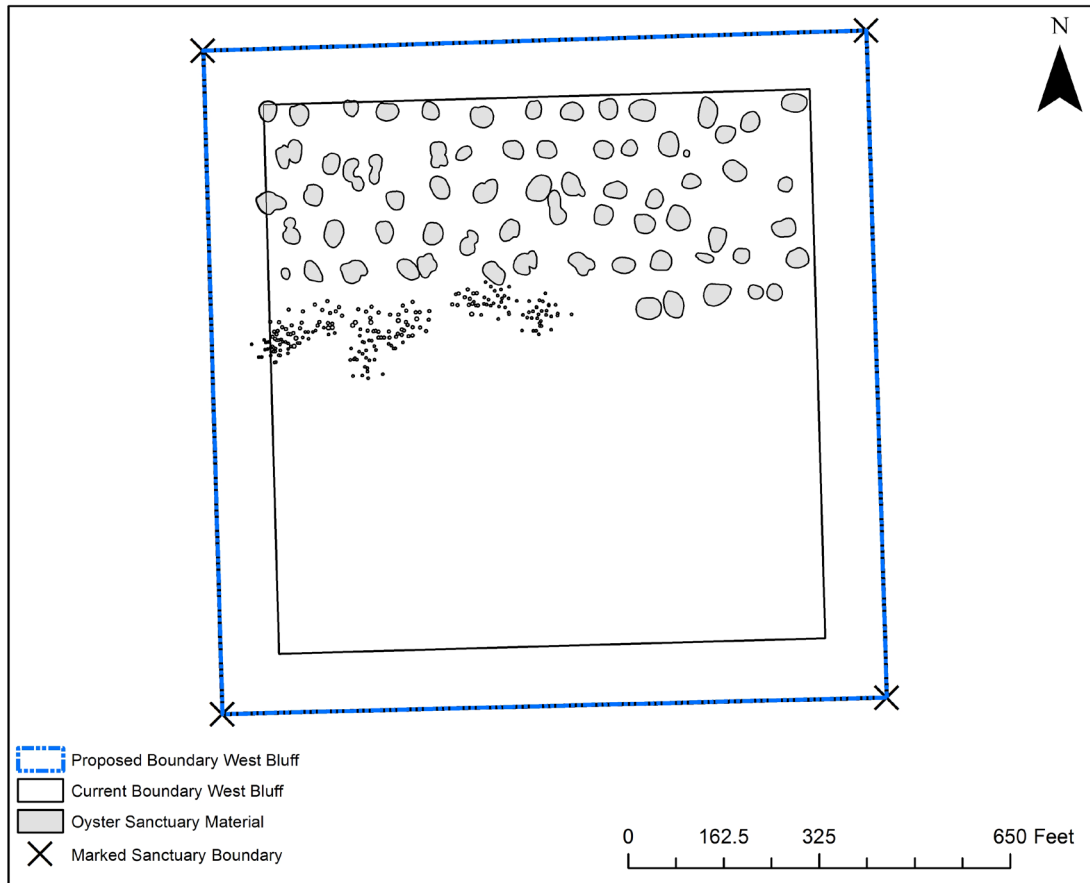


Figure 3. West Bluff Oyster Sanctuary. Proposed boundary marks 100-foot buffer from outermost material.

# OS-10 Gibbs Shoal

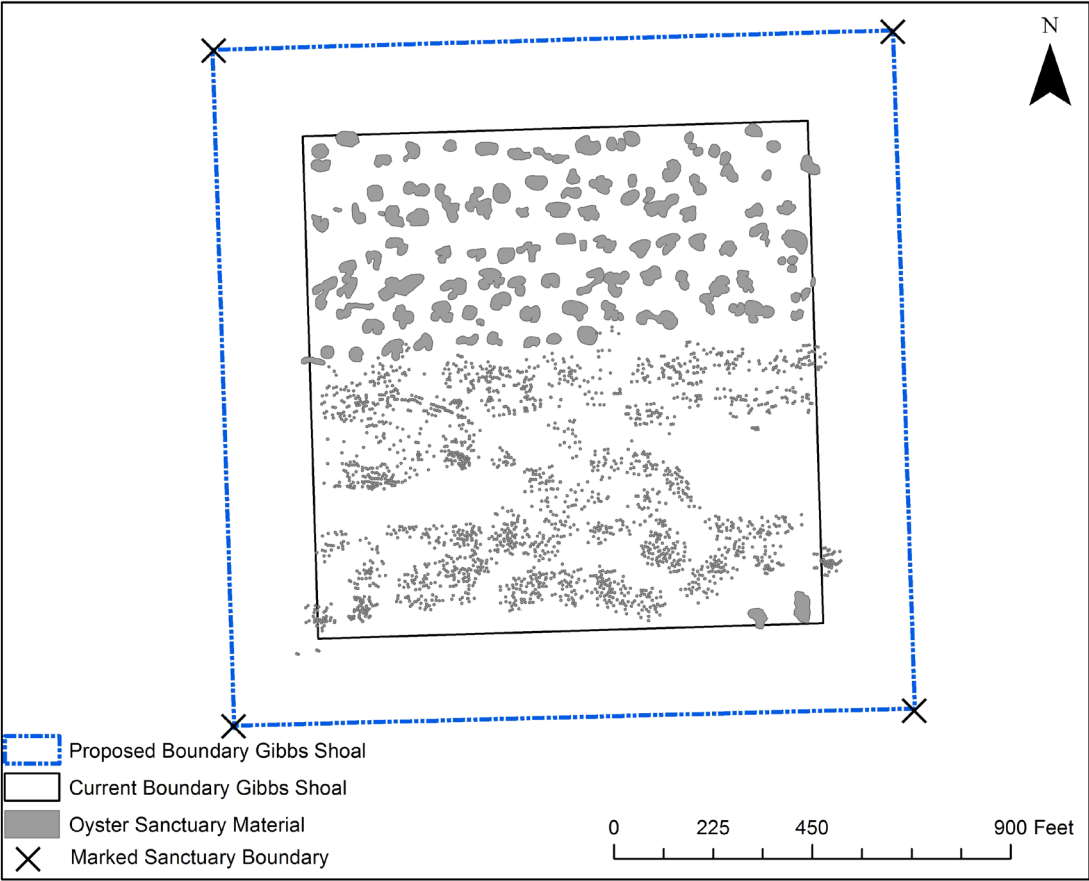


Figure 4. Gibbs Shoal Oyster Sanctuary. Proposed boundary marks 100-foot buffer from outermost material.

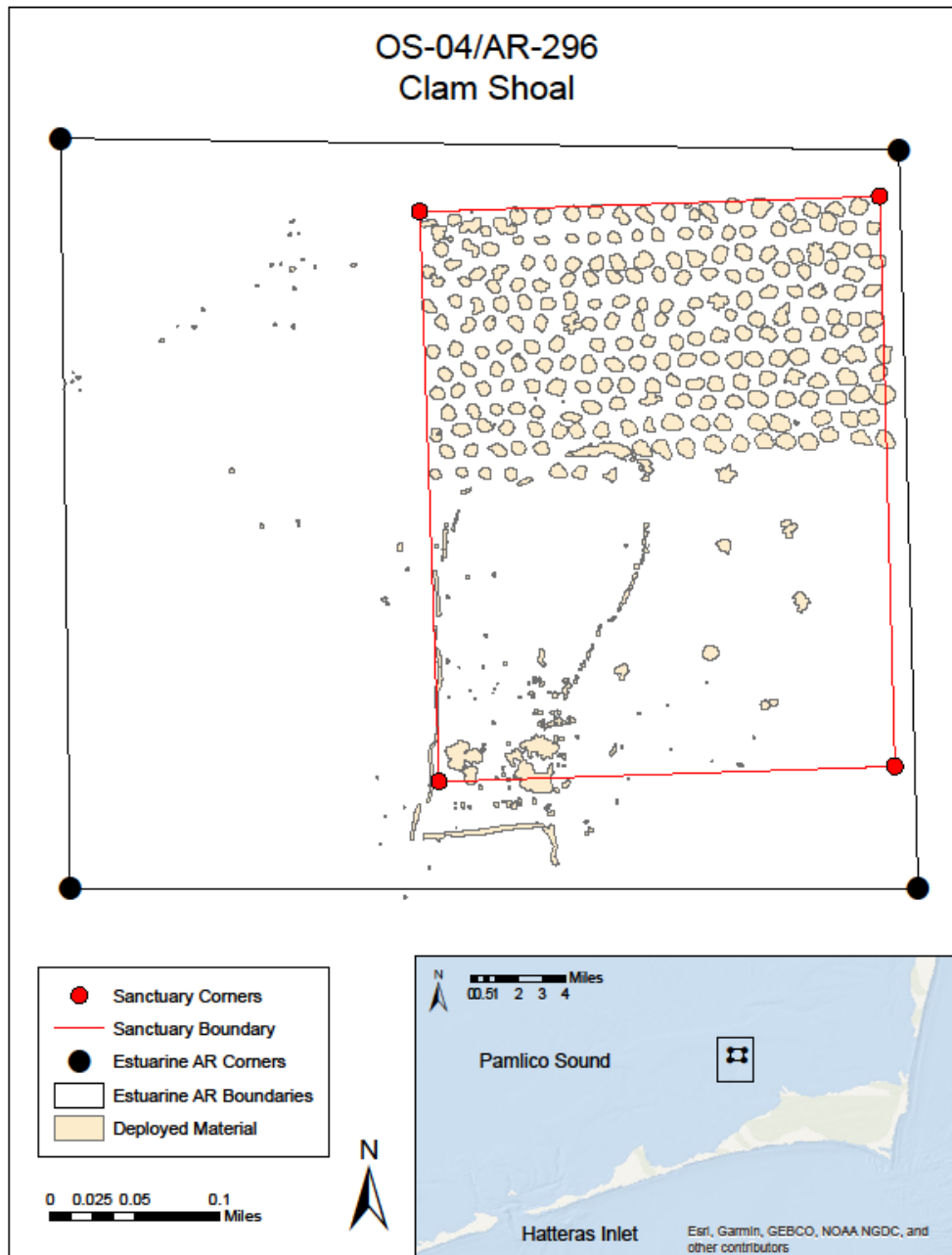


Figure 5. Map of Clam Shoal Reef (Hatteras Island Business Association Reef) and Oyster Sanctuary.



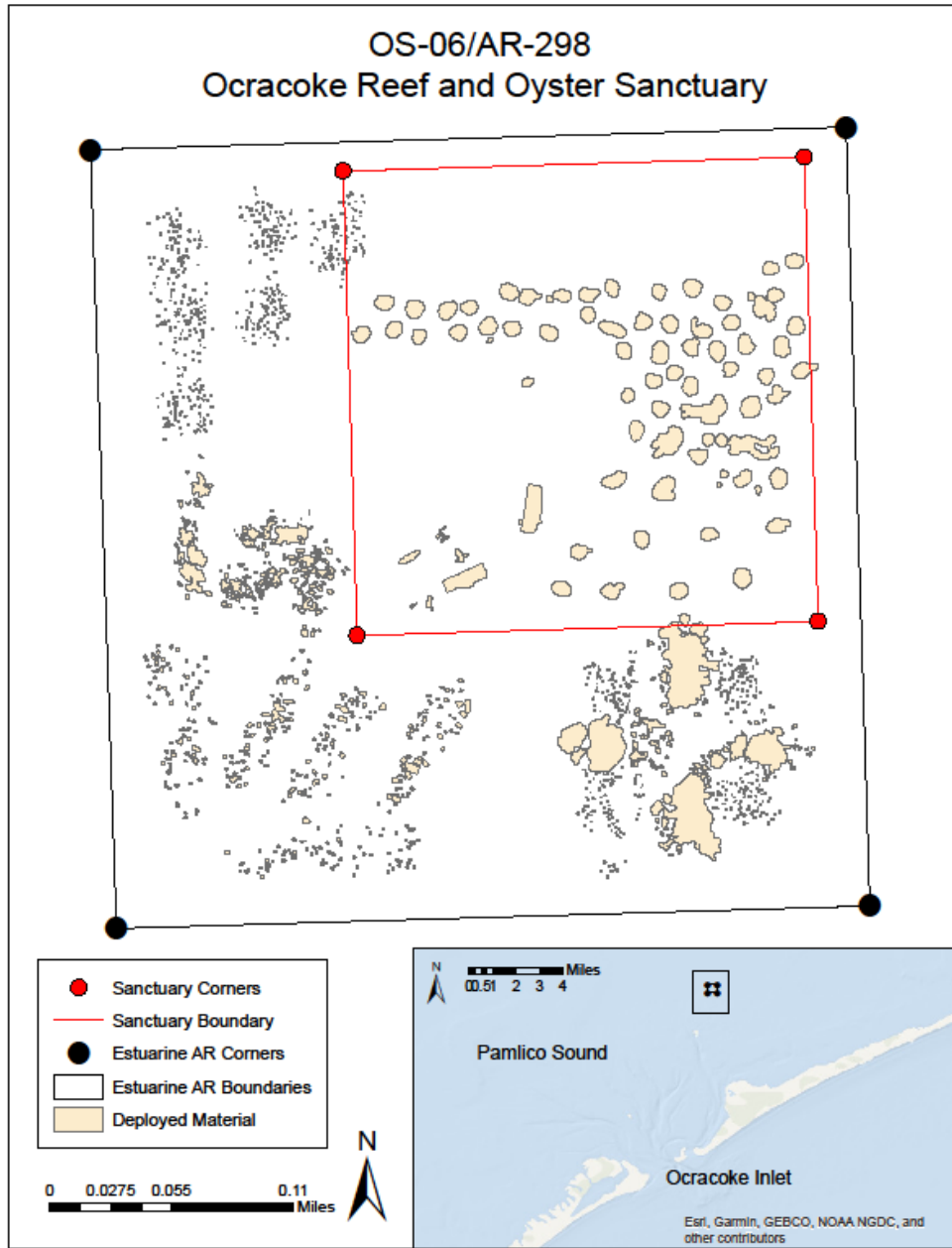


Figure 6. Map of Ocracoke Reef and Oyster Sanctuary.

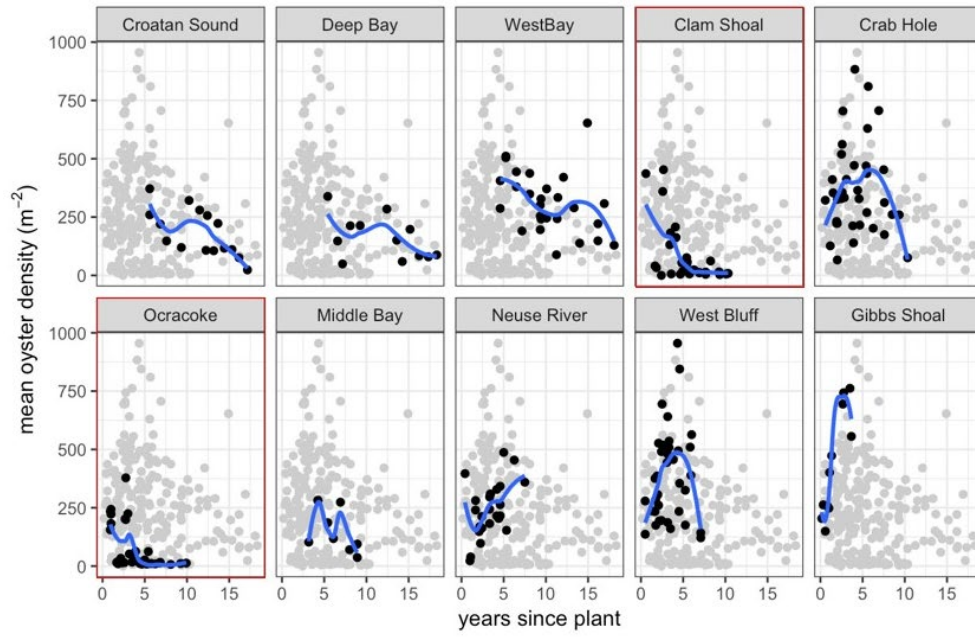


Figure 7. Oyster mean densities per site since sanctuary was planted (Z. Knorek, unpublished).

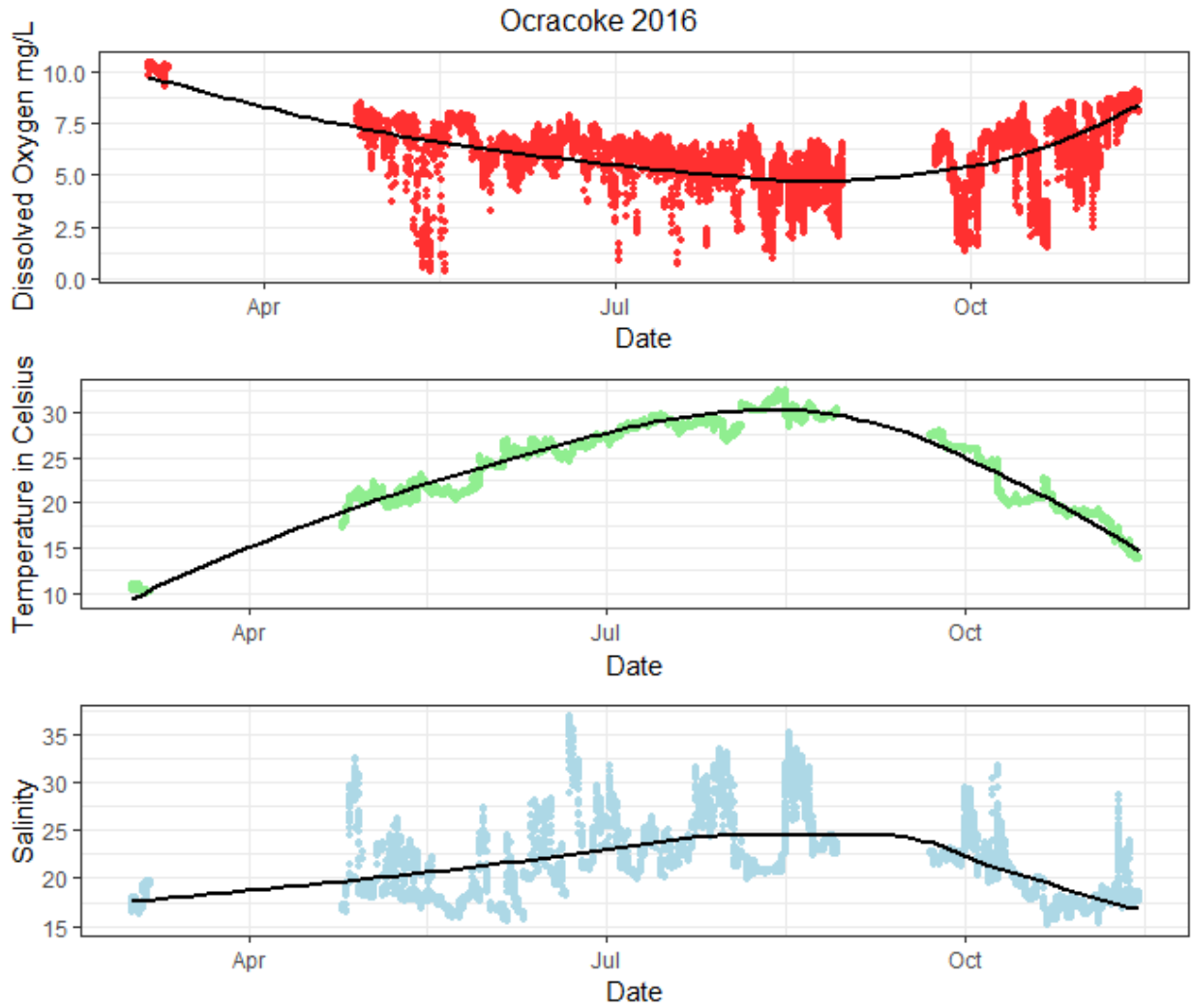


Figure 8. Water quality data collected at OS-04/AR 298 from March 2, 2016 - October 25, 2016.

## VII. PROPOSED RULE(S)

### 15A NCAC 03R .0117 OYSTER SANCTUARIES

The Oyster Sanctuaries referenced in 15A NCAC 03K .0209 are delineated in the following coastal water areas:

- (1) ~~Croatan Sound area: within the area described by a line beginning at a point 35° 48.2842' N - 75° 38.3360' W; running southerly to a point 35° 48.1918' N - 75° 38.3360' W; running westerly to a point 35° 48.1918' N - 75° 38.4575' W; running northerly to a point 35° 48.2842' N - 75° 38.4575' W; running easterly to the point of beginning.~~
- (2)(1) Pamlico Sound area:
- (a) Croatan Sound: within the area described by a line beginning at a point 35° 48.2842' N - 75° 38.3360' W; running southerly to a point 35° 48.1918' N - 75° 38.3360' W; running westerly to a point 35° 48.1918' N - 75° 38.4575' W; running northerly to a point 35° 48.2842' N - 75° 38.4575' W; running easterly to the point of beginning.
- (a)(b) ~~Crab Hole: within the area described by a line beginning at a point 35° 43.6833' N - 75° 40.5083' W; running southerly to a point 35° 43.5000' N - 75° 40.5083' W; running westerly to a point 35° 43.5000' N - 75° 40.7500' W; running northerly to a point 35° 43.6833' N - 75° 40.7500' W; running easterly to the point of beginning.~~
- (c) Pea Island: within the area described by a line beginning at a point 35° 05.4760' N - 76° 23.5370' W; running southerly to a point 35° 05.4760' N - 76° 23.4040' W; running westerly to a point 35° 05.3680' N - 76° 23.4040' W; running northerly to a point 35° 05.3680' N - 76° 23.5370' W; running easterly to the point of beginning.
- (d) Long Shoal: within the area described by a line beginning at a point 35° 33.8600' N - 75° 49.9000' W; running southerly to a point 35° 33.8600' N - 75° 49.7670' W; running westerly to a point 35° 33.7510' N - 75° 49.7670' W; running northerly to a point 35° 33.7510' N - 75° 49.9000' W; running easterly to the point of beginning.
- (b)(c) ~~Gibbs Shoal: within the area described by a line beginning at a point 35° 27.3557' N - 75° 55.8434' W; 35° 27.3550' N - 75° 55.9190' W; running southerly to a point 35° 27.1732' N - 75° 55.8434' W; 35° 27.1010' N - 75° 55.9190' W; running westerly to a point 35° 27.1732' N - 75° 56.0735' W; 35° 27.1010' N - 75° 56.2300' W; running northerly to a point 35° 27.3557' N - 75° 56.0735' W; 35° 27.3550' N - 75° 56.2300' W; running easterly to the point of beginning.~~
- (e)(f) ~~Deep Bay: within the area described by a line beginning at a point 35° 22.9126' N - 76° 22.1612' W; running southerly to a point 35° 22.7717' N - 76° 22.1612' W; running westerly to a point 35° 22.7717' N - 76° 22.3377' W; running northerly to a point 35° 22.9126' N - 76° 22.3377' W; running easterly to the point of beginning.~~
- (d)(g) ~~West Bluff: within the area described by a line beginning at a point 35° 18.3000' N - 76° 10.0890' W; 35° 18.3160' N - 76° 10.2960' W; running southerly to a point 35° 18.1460' N - 76° 10.0890' W; 35° 18.3160' N - 76° 10.0690' W; running westerly to a point 35° 18.1460' N - 76° 10.2760' W; 35° 18.1290' N - 76° 10.0690' W; running northerly to a point 35° 18.3000' N - 76° 10.2760' W; 35° 18.1290' N - 76° 10.2960' W; running easterly to the point of beginning.~~
- (e) ~~Clam Shoal: within the area described by a line beginning at a point 35° 17.4800' N - 75° 37.1800' W; running southerly to a point 35° 17.1873' N - 75° 37.1800' W; running westerly to a point 35° 17.1873' N - 75° 37.4680' W; running northerly to a point 35° 17.4800' N - 75° 37.4680' W; running easterly to the point of beginning.~~
- (f)(h) ~~Middle Bay: within the area described by a line beginning at a point 35° 14.1580' N - 76° 30.1780' W; running southerly to a point 35° 14.1150' N - 76° 30.1780' W; running westerly to a point 35° 14.1150' N - 76° 30.3320' W; running northerly to a point 35° 14.1580' N - 76° 30.3320' W; running easterly to the point of beginning.~~
- (i) Swan Island: within the area described by a line beginning at a point 35° 05.6170' N - 76° 27.5040' W; running southerly to a point 35° 05.6020' N - 76° 26.7650' W; running westerly to a point 35° 05.4850' N - 76° 26.7640' W; running northerly to a point 35° 05.4990' N - 76° 27.5030' W; running easterly to the point of beginning.

- ~~(g)~~ Ocracoke area: within the area described by a line beginning at a point 35° 10.8150' N - 75° 59.6320' W; running southerly to a point 35° 10.6320' N - 75° 59.6320' W; running westerly to a point 35° 10.6320' N - 75° 59.8530' W; running northerly to a point 35° 10.8150' N - 75° 59.8530' W; running easterly to the point of beginning.
- ~~(j)~~ Raccoon Island: within the area described by a line beginning at a point 35° 05.4760' N - 76° 23.5370' W; running southerly to a point 35° 05.4760' N - 76° 23.4040' W; running westerly to a point 35° 05.3860' N - 76° 23.4040' W; running northerly to a point 35° 05.3680' N - 76° 23.5370' W; running easterly to the point of beginning.
- ~~(h)~~~~(k)~~ West Bay: within the area described by a line beginning at a point 34° 58.8517' N - 76° 21.3632' W; running southerly to a point 34° 58.7661' N - 76° 21.3632' W; running westerly to a point 34° 58.7661' N - 76° 21.4735' W; running northerly to a point 34° 58.8517' N - 76° 21.4735' W; running easterly to the point of beginning.
- ~~(3)~~~~(2)~~ Neuse River: River area:
- ~~(a)~~ Little Creek: within the area described by a line beginning at a point 35° 02.6940' N - 76° 30.9840' W; running southerly to a point 35° 02.6940' N - 76° 30.7940' W; running westerly to a point 35° 02.5380' N - 76° 30.7940' W; running northerly to a point 35° 02.5380' N - 76° 30.9840' W; running easterly to the point of beginning.
- ~~(b)~~ Neuse River: within the area described by a line beginning at a point ~~35° 00.4742' N - 76° 31.9550' W~~; 35° 00.4910' N - 76° 31.9350' W; running southerly to a point ~~35° 00.3920' N - 76° 31.9550' W~~; 35° 00.3750' N - 76° 31.9350' W; running westerly to a point ~~35° 00.3920' N - 76° 32.0550' W~~; 35° 00.3750' N - 76° 32.0750' W; running northerly to a point ~~35° 00.4742' N - 76° 32.0550' W~~; 35° 00.4910' N - 76° 32.0750' W; running easterly to the point of beginning.

*History Note:* Authority G.S. 113-134; 113-182; 113-201; 113-204; 143B-289.52;  
 Eff. October 1, 2008;  
 Amended Eff. May 1, 2020; April 1, 2011.

## VIII. LITERATURE CITED

Frankenberg, D. 1995. North Carolina Blue Ribbon Advisory Council on Oysters. Final Report on Studies and Recommendations. North Carolina Department of Environment, Health, and Natural Resources. Raleigh, NC.

Gell FR and Roberts CM (2002) The fishery effects of marine reserves and fishery closures. World Wildlife Fund-US, Washington D.C., USA.

Halpern BS (2003) The impact of marine reserves: Do reserves work and does reserve size matter? *Ecol Appl* 13:S117-S137

Powers, S. P., C.H. Peterson, J. H. Grabowski & H. S. Lenihan. 2009. Success of constructed oyster reefs in no harvest sanctuaries: implications for restoration. *Mar. Ecol. Prog. Ser.* 389:159-170

Sobel JA and Dahlgren CP (2004) Marine reserves. A guide to science, design and use. Island Press, Washington, D.C., USA

## IX. PROPOSED MANAGEMENT OPTIONS

(+ Potential positive impact of action)

(- Potential negative impact of action)

### A. *Status quo*

- New Oyster Sanctuaries not fully protected in rule
- Outdated boundaries remain in rule for existing Oyster Sanctuary boundary lines
- Navigational Hazards to boaters

- Does not comply with principles of rulemaking in G.S. 150-B
- Inconsistent with state and federal permitting
- + No additional expenses for law enforcement and buoy maintenance

**B. Amend rule to add new oyster sanctuaries, remove two sanctuaries, and update boundaries**

- + New Oyster Sanctuaries fully protected in rule
- + Existing Oyster Sanctuary boundary lines would be updated
- + Safeguards boaters navigating the Oyster Sanctuaries
- + Complies with principles of rulemaking in G.S. 150-B
- + Removes unnecessary protections from certain reefs that are no longer effective oyster restoration tools
- + Addition of 100-foot construction buffer
- + Net increase of more than 101 acres of high-quality oyster habitat
- Increased expenses for marine law enforcement and buoy maintenance

**X. RECOMMENDATION**

DMF recommends the MFC approve Notice of Text for rulemaking in support of the proposed changes (Option B).

Prepared by: Kaitlin DeAeth  
 April 3, 2018  
 Revised: May 7, 2018  
 Revised by: Jason Peters  
 April 10, 2019

**NOTICE OF TEXT ATTACHMENT**

**15A NCAC 03R .0117 OYSTER SANCTUARIES**

Proposed amendments add the boundaries of five new Oyster Sanctuaries (Long Shoal, Little Creek, Pea Island, Raccoon Island, and Swan Island), remove boundaries of two Oyster Sanctuaries (Ocracoke and Clam Shoal), and update boundaries for three existing Oyster Sanctuaries (Neuse River, West Bluff, and Gibbs Shoal) where material was found to be outside of the perimeter due to construction or movement during settlement. These changes will protect oysters from bottom disturbing gear and safeguard boaters navigating the sanctuaries.

<b>MFC Rulebook Index Worksheet</b>			
Subject	Rulebook Page #	Entries	Add or Delete?
N/A	N/A	N/A	N/A

Ancillary items: update GIS database/maps; rescind Proclamation SF-2-2019