



NORTH CAROLINA  
Environmental Quality

ROY COOPER  
Governor

MICHAEL S. REGAN  
Secretary

BRAXTON C. DAVIS  
Director

CRC-19-08

February 13, 2019

**MEMORANDUM**

**TO:** Coastal Resources Commission

**FROM:** Jonathan Howell

**SUBJECT:** Proposed Rule Language for 15A NCAC 07K.0214 – Shellfish Leases Exemption

Since 2015, the number of shellfish leases applications processed by the NC Division of Marine Fisheries has increased from approximately 10 per year to approximately 50 per year. In the past, most of these applications were for bottom leases with limited bottom gear associated with clams and oyster cultch. In recent years, approximately half of the lease request are intended for stacked cages and/or water column equipment that are more intensive uses of public trust waters and submerged lands.

Considering the Coastal Resources Commission's authority for regulating development in Public Trust and Estuarine Waters, the Divisions of Marine Fisheries and Coastal Management agreed in 2016 that DCM should have a formal consulting role in the review of proposed shellfish leases. Through this arrangement, DCM has been reviewing shellfish leases and providing comments to DMF, similar to the commenting roles of the DMF Marine Patrol, Shellfish Sanitation, and Fisheries Management staff. The review process has now been in place for two complete shellfish leasing cycles and has proven to be useful in the review of shellfish lease applications.

Through informal comments, DCM has been recommending that DMF establish buffers between leases and adjacent coastal wetlands, avoid impacts to navigation, and limit boundary markers to less than 4 inches diameter, among other similar comments. To build on lessons learned over the past two years, DCM Staff are now proposing CRC rule language in the form of an exemption, which will provide clarity to DMF and the public applying for a shellfish lease in determining when a CAMA permit is required. Staff believes formalizing this exemption will reduce unnecessary gear, staging areas, and pilings by requiring an additional permit review by multiple agencies for any leases that exceed the thresholds outlined below. Staff looks forward to reviewing the proposed shellfish lease exemption at our upcoming meeting in Morehead City.



**15A NCAC 07K .0214 EXEMPTION FOR SHELLFISH LEASES**

Structures and gear associated with a shellfish aquaculture lease issued by the Secretary pursuant to G.S. 113-202, 113-202.1, and 113-202.2 are exempt from CAMA permit requirements provided the following criteria are met:

- (1) All posts, including anchoring and marking posts, are less than 4" in diameter;
- (2) Floating platforms are limited to floating upweller systems, and no portion of a platform is proposed to be used as a storage or staging area.
- (3) No wave baffles or other structures are proposed for the purpose of wave attenuation;
- (4) No docking facilities, slips, or fixed platforms are proposed;
- (5) All structures and fishing gear associated with the shellfish aquaculture lease are located a minimum of 20 feet from the waterward edge of any coastal wetland vegetation that borders the waterbody;
- (6) No enclosed or roofed structures are installed; and
- (7) No shore-based electric, water or other utilities are used to service the lease.