

# DECISION DOCUMENT

## Hard Clam Fishery Management Plan Amendment 3



This document was developed to help the MFC track previous activity and prepare for upcoming actions for Hard Clam FMP Amendment 3.

November 2024

## Summary

At their November 2024 business meeting, the Marine Fisheries Commission will review and provide input on the draft of Amendment 3 to the Hard Clam Fishery Management Plan (FMP). They will then vote on sending draft Amendment 3 out for review by the Marine Fisheries Commission Advisory Committees and the public.

## Background

The Hard Clam FMP is undergoing its five-year review. Since there is no stock assessment for status determination, the goal is to manage the resource to maintain the species population to provide long-term harvest and continue to offer protection and ecological benefits to North Carolina estuaries.

A joint issue that will also be addressed in Amendment 5 of the Eastern Oyster FMP is recreational shellfish harvest. Recreational shellfish harvest does not require a license in NC, resulting in the inability of the division to adequately collect recreational landings data. This data gap has been cited as a major need in all past FMPs and needs addressed to account for all removals from the populations. Additionally, shellfish harvest is subject to changing area closures due to human health and safety concerns. Without licensing or permitting requirements, the division is unable to ensure that every recreational harvester is informed of shellfish sanitation concerns. The FMP contains an issue paper outlining the broad need to capture recreational harvest sector information and have an effective means to provide health and safety information to all recreational shellfish harvesters.

The mechanical clam fishery is highly managed to very specific areas for operation during a season opening in early Dec. through March. Over time, some of the mechanical clam harvest areas have been encroached by SAV and oyster rocks. Since the last amendment in 2017, modifications to the mechanical clam harvest areas have occurred in Core Sound and North River, along with discontinued use in Bogue Sound. The use of mechanical gear to harvest clams had historically made up an important portion of total clam harvest but participation has declined rapidly in this fishery along with landings.

DMF has allowed harvesters access to clams before maintenance dredging and can continue to do so through Rule 15A NCAC 03K .0301 (b); and through communication with the USACE on their schedule to ensure timely notification of dredging activities. This activity has not occurred since 2007.

The mechanical clam harvest fishery from public bottoms has sharply declined since the 1990s, reaching historic lows in both participation and landings. Historically significant, this fishery has seen substantial reductions due to habitat impacts, pollution, market changes, and environmental events. With diminishing economic value, high management costs, and

significant habitat concerns regarding SAV and oyster beds, this issue considers options for the fishery's future.

## Amendment Timing

*(gray indicates a step is complete)*

September 2023	Division holds public scoping period
November 2023	MFC approves goal and objectives of FMP
December 2023 – June 2024	Division drafts FMP
July 2024	Division held workshop to review and further develop the draft FMP with the Oyster/Clam FMP Advisory Committee
August – November 2024	Division updates draft plan
November 2024	<b>MFC Reviews draft and votes on sending draft FMP for public and AC review</b>
January 2025	MFC Regional and Standing Advisory Committees meet to review draft FMP and receive public comment
February 2025	MFC selects preferred management options
March – April 2025	DEQ Secretary and Legislative review of draft FMP
May 2025	MFC votes on final adoption of FMP
TBD	DMF and MFC implement management strategies

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## Goal and Objectives

The goal of the N.C. Hard Clam FMP is to manage the hard clam resource to provide long-term harvest and continue to offer protection and ecological benefits to North Carolina’s estuaries. To achieve this goal, it is recommended that the following objectives be met:

- Use the best available biological, environmental, habitat, fishery, social, and economic data to effectively monitor and manage the hard clam fishery and its environmental role.
- Manage hard clam harvesting gear use to minimize damage to the habitat.
- Coordinate with DEQ and stakeholders to implement actions that protect habitat and environmental quality consistent with the Coastal Habitat Protection Plan (CHPP) recommendations.
- Promote stewardship of the resource through public outreach to increase public awareness regarding the ecological value of hard clams and encourage stakeholder involvement in fishery management and habitat enhancement activities.

# Summary of Preliminary Management Recommendations

A summary of the DMF's preliminary recommendations can be found below. ***Please note: these are the Division's initial recommendations and are subject to change.***

## ***Recreational Harvest***

Support the NCDMF to further explore potential options and develop a solution to quantify recreational shellfish participation and landings, and to establish a mechanism to provide all recreational shellfish harvesters with Shellfish Sanitation and Recreational Water Quality health and safety information outside of the FMP process.

## ***Mechanical Clam Harvest***

The Division recommends a phase out to be completed three years from the adoption of this plan unless fishery participation increases to 10 participants and landings increase to 1 million clams in any year prior to 2027. If these increases are met, the issue would be reconsidered by the MFC at their May 2027 business meeting, or the next meeting that participation and harvest estimates are available from 2026. The PDT also recommends the immediate end to the allowance for mechanical clam harvest in conjunction with maintenance dredging.

# Management Options

## ***Recreational Harvest***

Implementing a licensing or permitting requirement for recreational shellfish harvesters would give the Division the opportunity to inform participants of where to find information on harvest closure boundaries, where to sign up to receive polluted area proclamations or to access temporary closure maps, and where to find information on safe handling practices, particularly as it relates to Vibrio bacteria.

To pursue any of these solutions, significant time and effort will be needed to assess internal program and resource capabilities and limitations. Any legislative changes require a specific process and are ultimately out of NCDMF or MFC control. Given these constraints, NCDMF recommends exploring potential options and solutions outside of the FMP process.

## ***Mechanical Clam Harvest***

Due to the requirements of G.S. 113-221 (d), the division does not think the mechanical clam harvest fishery can be ended abruptly upon adoption of this amendment. An immediate closure of this fishery could "result in severe curtailment of the usefulness or value of equipment in which fishermen have any substantial investment" as outlined in statute. This would require "a future effective date so as to minimize undue potential economic loss to fishermen". Possible management options include, but are not limited to; status quo, ending the allowance for mechanical clam harvest in conjunction with maintenance

dredging activities, further limiting mechanical clam harvest areas, and phasing out the fishery. These management options would only affect mechanical clam harvest from public bottom and would not affect their use on private bottom.

Status quo would allow the fishery to continue to operate as it currently does. The fishermen currently operating in the fishery could continue, and new harvesters could join. The cost to the state for demarcation and enforcement would remain the same, making up a significant cost compared to the total value of the fishery. Concerns about effects of bottom disturbing gears on structured habitats would not be addressed.

Discontinuing the allowance for mechanical clam harvest in conjunction with maintenance dredging could also be considered. This would end a program that has not been utilized since 2007. This option could be pursued on its own, or in conjunction with a closure or phase out of the whole fishery. This would require a change to rule 15A NCAC 03K .0301 (b).

Mechanical clam harvest areas could be further limited to create boundaries that are more easily enforceable that also create buffers around critical habitat to protect them from sedimentation associated with bottom disturbing gears, as was done in the North River (Figure 4). To improve enforceability the boundaries would be based on permanent structures or known geographic features, be rectangular or rhomboid in shape without zig-zagging lines and have complete line of sight visibility. As with status quo, The fishermen currently operating in the fishery could continue, and new harvesters could join. The cost to the state for demarcation would be reduced, but the resources required for enforcement would likely remain the same, making up a significant cost compared to the total value of the fishery. This would help address habitat concerns, but sedimentation would still occur from mechanical harvesting operations.

The mechanical clam harvest fishery could be phased out over a set timeframe, as was done with the shellfish relay program. This option would allow fishermen currently operating in the fishery to continue during the phase out period but would discourage new participants. The phase out period would allow current mechanical harvesters time to get rid of gear and transition to other clam harvesting methods or fisheries. This option would address the division's cost concerns with demarcation and enforcement, as well as the habitat concerns. This option is consistent with G.S. 113-221 (d), as it gives "a future effective date so as to minimize undue potential economic loss to fishermen".

After hearing concerns from the FMP Advisory Committee about participants wanting the ability to re-enter the fishery, the division recommends a phase out timeframe of three years from adoption of this amendment unless minimum landings and participation increases occur in the fishery in any year prior to 2027. This increase in landings and participation would show the fishery is no longer diminishing and is valuable enough to maintain. The division recommends the threshold for participants in the mechanical clam harvest fishery on public bottom be set at 10. Ten participants have not been active in a single year in the fishery since 2017 and is over three times the number of active participants in 2022 (three participants), but still less than a tenth of the peak participation in 1996 (132 participants).

The division recommends the threshold for landings in the mechanical clam harvest fishery on public bottom be set to one-million clams. The fishery last landed over one million clams in 2014 (1.5 million clams) and is over six times the number caught in 2022 (less than 200,000 clams), but still less than an eighth of the peak landings in 1995 (8.2 million clams). If both thresholds are met in any single year prior to 2027, the issue would be brought back to the MFC for consideration at their May 2027 business meeting, or the next meeting that participation and harvest estimates are available from 2026, where they would decide whether to move forward with phase out of the fishery. This timing ensures that if the phase out continues as planned, fishermen would still have three years to sell their gear and exit the fishery before the phase out is complete and the fishery closes in 2028, which would be consistent with G.S. 113-221 (d) (Figure 1).



Figure1. Proposed timeline for the phase out of the Mechanical Clam Harvest Fishery on public bottom.

## Next Steps

At their November business meeting the Marine Fisheries Commission will review draft Amendment 3 to the Hard Clam FMP, including the full list of management options. This is an opportunity for the Commission to provide input on the management strategies and options that are included in the draft FMP for public and MFC Advisory Committee review.

Following their review and input, the Commission will vote to send draft Amendment 3 out for public and MFC Advisory Committee review. If approved, the draft is expected to go out to the appropriate MFC Advisory Committees in January 2025 with a public comment period held around that same time. The outcome of that comment period and MFC AC review would then be presented to the Commission during their February business meeting.