

Fiscal Impact Analysis of Proposed Amendment to the Marinas, Docking Facilities, and Other Mooring Areas Rule

Rule Amendments: 15A NCAC 18A .0911 (amendment and readoption)

Name of Commission: N.C. Marine Fisheries Commission

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Impact Summary: State government: Yes
Local government: No
Federal government: No
Substantial impact: No

AUTHORITY

N.C. General Statutes

G.S. 113-134. Rules.
G.S. 113-182. Regulation of fishing and fisheries.
G.S. 113-221.2. Additional rules to establish sanitation requirements for scallops, shellfish, and crustacea; permits and permit fees authorized.
G.S. 143B-289.52. Marine Fisheries Commission – powers and duties.

Necessity: General Statute 150B-21.3A requires State agencies to review their existing rules every 10 years to determine which rules are still necessary, and to either readopt or repeal each rule as appropriate. This rule, 15A NCAC 18A .0911 (see Appendix I), is proposed for readoption with amendments pursuant to this requirement. The marina rule, as it is currently written, may not be fully in compliance with national program requirements for shellfish harvesting closures and does not use the best available methodology to do so for the protection of public health. Proposed amendments would help ensure that North Carolina remains in full compliance with national requirements, allow Division of Marine Fisheries (DMF) to determine necessary buffer closures based on a more scientific and public health-based rationale, and make implementation and enforceability more clear.

I. Summary

North Carolina is part of the National Shellfish Sanitation Program (NSSP), which is a federal/state cooperative program designed to “promote and improve the sanitation of shellfish (oysters, clams, mussels, and scallops) moving in interstate commerce” as stated in Section I page 2 of the NSSP Guide for the Control of Molluscan Shellfish ([Guide](#)). DMF staff work together with representatives from other states, the federal government, and industry through the

Interstate Shellfish Sanitation Conference to develop guidelines for all state shellfish programs that are summarized in the Guide. North Carolina must meet the minimum standards included in the Guide for N.C. shellfish to be able to be sold through interstate commerce.

With reference to the harvest classification of shellfish growing waters in and around marinas, the Guide requires that a pollution assessment be used to determine the necessary classification in and around the marina docks, and that a dilution analysis be used to determine the size of any harvest closure that may be necessary as a result of the pollution assessment. The current N.C. rule necessitates that a pollution assessment be used to determine the necessary classification in and around the marina docks but does not require a dilution analysis to determine closure size, and instead prescribes specific closure measurements based on a limited number of marina characteristics. The proposed rule would maintain the pollution assessment requirement but would also require that a dilution analysis be used to determine closure size, which would help ensure that North Carolina remains in full compliance with national program requirements and would provide a more scientific and public-health based rationale for these buffer closures.

Small but unquantifiable potential private and State benefits could result from the proposed rule amendments. The proposed changes would allow North Carolina to base necessary buffer sizes around marinas on the best available science and data. The introduction of the dilution analysis requirement would help ensure that North Carolina remains in full compliance with the Guide for safe harvest of shellfish, which could increase consumer confidence in the N.C. shellfish industry and would help ensure that N.C. shellfish can continue to be sold through interstate markets. Also, the elimination of an exemption clause (explained later in this analysis) would allow for more clarity amongst stakeholders and help ensure consistent, clear, and more efficient enforcement across marinas.

There could be small but unquantifiable potential private and State costs from the proposed rule amendments. There would be some allocation of State resources once this rule goes into effect to calculate the necessary buffer associated with each marina using the new dilution equation. However, the aim is to develop a spreadsheet “calculator” that utilizes the most recent shoreline survey data to update these calculations automatically, so after initial development and implementation, the added time is expected to be minimal. Additionally, because the current rule makes use of ranges of slip numbers for determining the necessary buffer size, there is some flexibility to absorb minor changes in slip counts without an associated change in the buffer size. The amended rule makes use of specific slip counts when determining the buffer size, which could reduce or eliminate the flexibility for minor changes in slip count and may lead to more frequent, but clear, classification changes. The implementation of these classification changes will be integrated into routine, pre-existing processes, and will not necessitate any notable additional effort on the part of DMF staff.

In response to changes in buffer sizes the designation of a region of water may be changed to or from being open to the harvest of shellfish. These potential changes in designation could allow areas that were formerly used for shellfish harvest to be closed or areas that were previously closed to be open to harvest. There could be different impacts to the diverse stakeholders through the changes in allocation. This rule could primarily impact two stakeholder groups. The first is

the individuals that keep their boats at the marina and the marina owners. They could benefit from reallocation of the water ways that are near them away from shellfish harvest and for navigation. The second group of individuals is the wild shellfish harvesters who would like to maximize harvest areas. Having said that, any allocation change would be based on the best available science and data to protect public health. If waters which were allocated as “best use” (introduced in Section II) for shellfish harvesting are changed to prohibited from shellfish harvesting, that change would be in response to the waters being unsafe for shellfish harvest. As discussed in more detail later in this analysis, the acreage of water that could potentially change designation is minimal.

II. Introduction and Purpose of Rule Change

As part of its work with the NSSP and in compliance with the Guide, the responsibilities of the DMF include classifying coastal waters as to their suitability for shellfish harvesting. Shellfish growing waters can be classified as “Approved”, “Conditionally Approved”, “Restricted”, or “Prohibited”. Approved areas are consistently open to harvest, while prohibited areas are off limits for shellfish harvest. Conditionally approved areas can be open to harvest under certain conditions, such as dry weather when stormwater runoff is not having an impact on surrounding water quality, and restricted waters can be used for harvest at certain times as long as the shellfish are subjected to further cleansing before they are made available for consumption.

The entire North Carolina coast is divided into a series of management units that are referred to as growing areas. Each of these growing areas is individually managed to determine which portions of the area are suitable for shellfish harvest, and which need to be closed to harvest. A variety of data are collected for each area, including:

- A shoreline survey of actual and potential pollution sources impacting the area.
- Bacteriological water quality sampling data from stations located throughout the area.
- Data summarizing the impacts of rainfall and associated stormwater runoff on growing area water quality.
- A summary of tides, water circulation patterns, and other physical factors that influence the movement of potential contaminants within the growing area.

These data are summarized and analyzed in a Sanitary Survey Report, which is then used to determine the appropriate harvest classifications.

A shoreline survey is an in-field evaluation of any potential or actual pollution sources within a growing area watershed to determine their potential impact on shellfish growing waters and public health. These detailed surveys are completed every three years and involve visits to properties throughout each growing area watershed, where potential sources of pollution such as marinas, on-site wastewater systems, agricultural areas, wastewater treatment plants, and stormwater drainage systems are all evaluated for their potential impacts on surrounding water quality. In intervening years, these surveys are updated to reflect any major changes in pollution source impacts that may have occurred. Pollution source data collected using GPS, as well as a written summary of shoreline survey findings, are each incorporated into the Sanitary Survey Report, and are used to help assess which portions of the growing area are suitable for shellfish harvest.

Separately, the Division of Water Resources (DWR) classifies all surface waters in the State to define the “best use” of those waters, and to define the water quality standards that apply to those waters in order to protect that best use. For example, in the coastal area, surface waters can be classified as SA, SB, or SC. As defined in 15A NCAC 02B .0221, “the best usage of waters classified as SA shall be shellfishing for market purposes...”, and the water quality standards applied to those waters are designed to keep those waters available for shellfish harvest. DWR considers any proposed project that will directly cause a loss of the best use for a given water body to be a potential violation of the Clean Water Act, and thus DWR will object to the permit for a project being issued.

Marinas, defined in 15A NCAC 18A .0901 as “any water area with a structure (such as a dock, basin, floating dock) that is utilized for docking or otherwise mooring vessels and constructed to provide temporary or permanent docking space for more than 10 boats”, can serve as potentially significant sources of contamination within shellfish growing waters. Because this risk of contamination is often highly variable, short-lived, and difficult to predict, typical water quality evaluations through sampling are not sufficient to determine the threat to shellfish consumers, and instead states are required to maintain some type of buffer closures around these facilities.

Section II, Chapter IV .05-Marinas of the Guide classifies two subcategories when it comes to closures around marinas. The first is a marina proper and the second is the adjacent waters to a marina. The marina proper classification includes the area within any marina that is in or adjacent to a shellstock growing area, which shall be classified as...prohibited (as defined in 15A NCAC 18A .0901 as shellfish growing waters unsuitable for the harvesting of shellfish for direct market purposes.)

The same section of the Guide also states that “waters adjacent to marina waters...may be impacted by pollution associated with the marina. A dilution analysis shall be used to determine if there is any impact to adjacent waters.”

The current version of 15A NCAC 18A .0911 defines how to classify shellfishing waters in and around marinas but does not mandate use of a dilution analysis and instead lays out specific footage requirements for buffer closures based on the number of slips present and other physical characteristics of a marina. The overarching goals of the proposed amendments to this rule are a) use a dilution analysis to replace the current process for determining the size of the necessary buffer closure, as required by the NSSP, b) provide a more scientific and public health-based rationale for these buffer closures, and c) make implementation of the rule easier, reduce gray areas, and eliminate portions of the rule that were unenforceable. Implementation of these proposed rule amendments and the dilution analysis will be set out in Division policy and will rely on broad U.S. Food and Drug Administration (FDA) guidance as well as some N.C. specific data that is acquired through yearly marina surveys.

The current version of this rule lays out exemptions to the requirement that the waters in and around a marina be classified as prohibited to the harvest of shellfish. The rationale behind including these exemptions was that marinas maintaining a limited number of boats that are small in size, do not support live-aboards or overnight stays, and do not contain onboard wastewater systems do not have the potential to pollute surrounding shellfishing waters in a way

that would pose a threat to public health. There are currently 20 marinas along the coast of North Carolina that fall under the exemption clause and only 10 of those are located in areas where the surrounding waters are still open to shellfish harvest.

This exemption portion of the rule has provided coastal property owners with some limited extra flexibility if they want to develop a marina within open shellfishing waters. Currently, if a marina that does not meet these “exemption criteria” is proposed in an area that is classified as restricted, conditionally approved, or approved for shellfish harvest, the potential resulting prohibited buffer is considered by the DWR to be a violation of the Clean Water Act because it causes a departure from the best use designation in that region of water (shellfish harvest), which results in an automatic denial of the permit application for the marina by the N.C. Division of Coastal Management (DCM). It is important to note that as DMF adjusts buffer sizes the designation of waters from DWR remains the same. If a region that was formerly outside of a buffer is now included in a buffer the best use designation would not change but the region of water would be designated as impaired if it has a best use for the harvest of shellfish. There are ways that best use designations could be changed but not explicitly in response to a change in a buffer size that DMF has calculated. In other words, the triggering event for a potential request by a stakeholder to DWR to change a best use designation would occur independent of the proposed rule change and independent of a change in buffer size. Though there is data sharing between DMF and DWR to harmonize across agency goals, DWR is not formally involved in the determination of particular buffer closures and through the proposed rule change that is not expected to change.

This exemption section of the existing rule is proposed to be deleted. Because of differences in rule and policy between the DMF and DCM, as well as regular, frequent turnover between developers and Home Owners Associations (HOA), the latter of which are charged with maintaining these permits for marinas, this provision of the rule has been very difficult to implement and enforce, and there have been several instances in recent years where exempted marinas have been found out of compliance by DMF staff.

III. Fiscal Analysis

The proposed rule is expected to produce small, but unquantifiable benefits to the State in the form of increased consumer confidence in the wild shellfish harvest sector and continued compliance with NSSP closure regulations, clarity across institutions and private stakeholders, and less State resources used on exempt marinas. The amended rule will incorporate a dilution analysis which will bring increased scientific validity to marina buffer closures and better protect public health through that scientific rigor. Though there have not been any illnesses linked to buffer closure sizes, through the dilution analysis, the State could have more confidence in the size of shellfish water closures, the location of shellfish water closures, and safety of harvestable shellfish waters around marinas. The incorporation of this dilution analysis will further protect public health and help ensure that North Carolina remains in full compliance with all national program requirements, which is necessary for N.C. shellfish to be sold through interstate markets.

To assess how the dilution analysis could impact existing classifications, test calculations were done on a representative cross section of 80 of the potential 120 marinas between the South Carolina State Line and Roanoke Island; the remaining 40 marinas have similar characteristics. Using the dilution analysis, 61 of these marinas were found to have adequate buffers already in place, while 19 would need expanded closure areas if this amended rule was implemented. The average necessary increase in closure for each of these 19 marinas was 1.48 acres or an average increase in buffer size of 53%. Extrapolating from the representative sample, this would indicate that a total of around 42 additional acres out of the approximately 1,460,000 approved or conditionally approved waters available would need to be closed to shellfish harvest. It is unlikely that these additional closures will have much impact on harvestable acreage as summarized in Table 1. The 42 acres of potential waters that could be closed are often either routinely dredged to ensure accessibility to the docking facilities or are located in shallow protected canals which are not productive shellfish habitat. The DMF does not expect any productive wild shellfish harvest areas nor any shellfish leases to be closed due to the increase in buffer sizes associated with the introduction of the dilution analysis.

Table 1: Summary of approximated changes to acreage of waters open to shellfish harvest.

<i>Estimated Changes If Rule Adopted</i>	
North Carolina - Total Acreage Approved/Conditionally Approved	1,460,000
Estimated Acreage To Be Closed Due To Modified Dilution Analysis	42.2
Estimated Acreage To Be Closed Due To Removal of Exemption	15.5
Estimated Acreage to be Classified as Approved/ Conditionally Approved	0

Amendments will also eliminate an exemption clause that allows waters in and around a marina to not be classified as prohibited if the boats in the marina are small, both in size and abundance, do not support live-aboards, and do not have onboard wastewater systems. With the elimination of this exemption there will be a cohesion of rule and policy between the DMF and DCM and clarity amongst managers of the marina who may not have been involved with the marina when it received its exemption status. The exemption clause has been difficult to implement and enforce and has taken relatively more DMF and DCM effort than all other marina designations.

It should also be noted that in the 33 years that this rule has been in place, only 20 marinas have been permitted under the above-described exemption, so while it is an option that is currently available to coastal landowners and developers, it is not a popular or frequently used option. Although there are 20 marinas that meet or should meet the criteria for this exemption, only 10 of those are in areas where the surrounding waters are still open to shellfish harvest. The elimination of this provision will result in the additional closure of approximately 15 water acres surrounding these 10 marinas, in total (Table 1). The elimination of the exemption provision

will not require these 10 existing marinas to change their current operations, even after the additional closure of the approximately 15 water acres.

Docking facilities that have ten docking spaces or less will still be exempt from needing a buffer closure under the new proposed amendments to rule, because by definition a docking facility with ten or fewer slips does not qualify as a marina (15A NCAC 18A .0901). In many cases, the elimination of an “exemption” generally is seen only as a cost or loss, but in this case this particular exemption carries a burden to the State and current marina operators and users that will be alleviated under the proposed rule change.

The rule could produce small opportunity costs to the State through the time it will take to modify the buffers for each marina. However, the aim is to develop a spreadsheet “calculator” that utilizes the most recent shoreline survey data to update these calculations automatically, so after initial development, the added time is expected to be minimal. Implementation of these modified buffer closures will be integrated into routine, pre-existing processes for growing area reclassifications, and will not necessitate any additional staff time.

The elimination of a rarely used designation through the exemption clause could reduce the potential options for locating future marinas. Applicants for a new marina will have one less option under the amended rule. They would need to seek a new marina location in water that is not designated approved or conditionally approved or a docking facility with ten docking spaces or less. Based on the limited use of this exemption in the past, we expect this change will impact very few, if any, coastal landowners and developers in the future.

a. Summary of Potential Economic Benefit

The proposed amendments could provide potential small State and private benefits. The benefits stem from clarity and compliance with the rule. Bringing the State’s shellfish water closures into fuller compliance with NSSP standards could also allow for increased consumer confidence in shellfish harvested in the State and further protect public health through the incorporation of a more rigorous buffer analysis. The benefits of ensuring that polluted waters are correctly designated and that the State remains in full compliance with all national program requirements far overshadows the small amount of DMF staff time the calculations for the dilution analysis could take.

Marinas that would have qualified for the exemption would create continued confusion and discrepancies between DMF and DCM. Elimination of the exemption could allow cohesion and clarity both at the institutional level and the private level. Many marinas that fit the former exemption criteria were designated as such by a developer and then taken over by a HOA. When homes are bought and sold, the personnel involved in the HOA changes and there is often confusion about the exemption designation. Specifically, there have been instances where homeowners have already owned or have inadvertently purchased a boat that does not meet the criteria for the exemption. To bring the marina back into compliance with its permit, the homeowner has sometimes been required to either sell the boat or to find an alternate storage location. With the elimination of this portion of the rule, slip owners at these marinas will have

additional flexibility with the type and size of boat they are able to dock there. Eliminating the exemption also ensures public health is the priority when it comes to dictating shellfish harvest closures. DMF spends resources repeatedly enforcing marinas' designations over time with changing HOA personnel. DMF resources could be used in other ways if the exemption is eliminated.

b. Summary of Potential Costs

The most likely potential cost associated with this rule change is that, moving forward, it will eliminate one potential option that coastal landowners or developers have when trying to get permitted to construct a marina in waters that are or may be open to shellfish harvest. The exemption has historically been used as a tool by developers to maximize slips. An unintended consequence of this exemption has been that it has reduced the flexibility future vessel owners have when it comes to vessel size and number of slips in the marina if the marina would like to expand. The exemption language in the current rule allows for construction of a marina, with specific limitations, in SA waters without causing a reclassification of those waters to prohibited, thus maintaining the "best use" for those waters. However, once this clause is eliminated, the only potential classification within and around marinas will be a classification of prohibited. In effect, this change in the rule will preclude any further development of marinas with more than 10 docking spaces in areas classified as approved or conditionally approved, although there is an available option for a permit applicant to request or conduct a "Use Attainability Study" to demonstrate to DWR that an area already does not support its best intended use (i.e., shellfish harvest), and that the project will not directly cause the loss of use.

Elimination of the exemption through the amended rule will necessitate that buffer closures be added around marinas that had historically been permitted under this clause. It is unlikely that these additional closures will have any appreciable impact on harvestable acreage, as the waters surrounding many of these facilities are routinely dredged to maintain depth around the docks, and several others are in shallow protected canals without suitable shellfish habitat. In recent years, as boat design has evolved and as small cabins and onboard toilets have been introduced into even smaller boats, it has become very difficult to meet these exemption criteria, and developers have often chosen alternate development plans. It should be noted that, under this amended rule, the permitting and construction of docking facilities with 10 slips or less will still be possible without necessitating a reclassification to prohibited based on the definition of "marina" in 15A NCAC 18A .0901.

In the proposed amended rule, the dilution analysis will take into consideration the exact number of slips available and will not use a range of slips. Therefore, the size of the buffer may be more directly affected by a small change in the number of slips.

The revisions to existing buffers that may result from the dilution analysis will require DMF staff to construct a tool that will calculate the buffer sizes. The information that will go into the tool is already collected; as such, the only additional time required for the dilution analysis tool will be in the construction of the tool itself. Development of the buffer tool is expected to be completed by a current staff member within about 50 hours of working time. According to the current job classification salary grade ([web1](#)) and the total compensation calculator ([web2](#)) provided by the

North Carolina office of human resources, the salary range for an employee to complete the development of the buffer tool is \$46.62 to \$68.47 dollars per hour totaling between \$2,331.00 and \$3,423.50. This time will be built into their duties and will not be above and beyond their normal hours nor pay. This time and associated cost, though real, is not expected to be significant nor require additional staff. DMF administers the shoreline survey which, among other things, assesses the number of slips in each marina. As new slips are identified, new calculations could need to be made and harvestable water designations could change. DMF staff already perform comprehensive shoreline surveys, including the regular assessment of harvestable water designations. The use of dilution analysis will replace the analysis currently done using ranges of slips. The use of dilution analysis is not expected to add to staff workload beyond the one-time initial analyses of all marinas.

This transition away from ranges of slips to particular numbers of slips will help ensure shellfish harvested in the State are in safe waters in regards to marina pollution. Although there is the potential that a change in designation could allow areas that were previously closed to be open to harvest, in most cases the State would leave the existing closed designation in place to provide a cushion for future changes in slip count (Table 1).

1 Appendix I: Proposed Rule

2 15A NCAC 18A .0911 is proposed for readoption with substantive changes as follows:

3

4 **15A NCAC 18A .0911 ~~MARINAS; MARINAS, DOCKING FACILITIES; FACILITIES, AND OTHER~~**
5 **~~MOORING AREAS~~**

6 ~~Classification of shellfish~~ Shellfish growing waters with respect to marinas, docking facilities, and other mooring
7 areas shall be ~~done~~ classified in accordance with the following:

8 (1) All all waters within ~~the immediate vicinity of~~ a marina shall be classified as prohibited to the
9 harvesting of shellfish for human consumption.

10 ~~Excluded from this classification are marinas with less than 30 slips, having no boats over 24 feet~~
11 ~~in length, no boats with heads and no boats with cabins. Marinas permitted prior to the effective~~
12 ~~date of this Rule may continue to have boats up to 21 feet in length with cabins and not be subject~~
13 ~~to the mandatory water classification of prohibited in the immediate vicinity of the marina.~~

14 (2) ~~Owners of marinas conforming to the exclusion provisions in Item (1) of this Rule shall make~~
15 ~~quarterly reports to the Division. These reports shall include the following information:~~

- 16 (a) ~~number of slips;~~
- 17 (b) ~~number and length of boats;~~
- 18 (c) ~~number and length of boats with cabins;~~
- 19 (d) ~~number of boats with heads; and~~
- 20 (e) ~~number of boats with "porta-potties."~~

21 ~~Reports to the Division shall cover the occupancy of the marina on the fifth day of the first month of each quarter of~~
22 ~~the calendar year and shall be post marked on or before the fifteenth day of the reporting month.~~

23 (3) ~~The minimum requirement for the prohibited area beyond the marina shall be based on the number~~
24 ~~of slips and the type of marina (open or closed system). The prohibited area shall extend beyond~~
25 ~~the marina from all boat slips, docks, and docking facilities, according to the following:~~

26

27 Number of Slips in Marina	28 Size of Prohibited Area (Feet)	
	29 Open System	30 Closed System
31 11—25	100	200
32 26—50	150	275
33 51—75	175	325
34 76—100	200	400

35 ~~Open system marinas exceeding 100 slips shall require an additional 25 feet for each 25 slips or portion thereof over~~
36 ~~100. A closed system marina shall require 50 feet for each 25 slips or portion thereof over 100. Closed system~~
37 ~~private or residential marinas with more than 75 slips shall require a prohibited area of the number of feet~~

1 ~~determined above, or 100 feet outside the entrance canal, whichever is greater. Closed system commercial marinas~~
2 ~~with more than 50 slips shall require a prohibited area of the number of feet determined above, or 100 feet outside~~
3 ~~the entrance canal, whichever is greater.~~

4 (2) the Division of Marine Fisheries shall conduct a dilution analysis to determine the minimum
5 extent of the area adjacent to a marina that shall be classified as prohibited to the harvesting of
6 shellfish for human consumption. The prohibited area shall be sized to dilute the concentration of
7 fecal coliform bacteria to less than 14 MPN, as determined by the dilution analysis. The dilution
8 analysis shall be conducted yearly and shall incorporate the following:

9 (a) the findings of the shoreline survey, including the presence of a sewage pumpout system
10 or dump station; and

11 (b) the physical factors influencing the dilution and dispersion of human wastes; and

12 (4)(3) ~~After a marina is put in use water quality impacts of marina facilities may require a change in~~
13 ~~classification. In determining if a change in classification is necessary, marina design, marina~~
14 ~~usage, dilution, dispersion, bacteriological, hydrographic, meteorological, and chemical factors~~
15 ~~will be considered. slip counts and services for marinas, docking facilities, and mooring areas in~~
16 ~~close proximity to one another shall be combined for the purposes of determining the necessary~~
17 ~~prohibited area as required in Items (1) and (2) of this Rule. Docking facilities and mooring areas~~
18 ~~each with three slips or more and marinas shall be considered to be in close proximity to one~~
19 ~~another if the dilution analysis indicates that the necessary dilution areas meet or overlap.~~

20 (5) ~~Areas, other than marinas, where boats are moored or docked may be considered on a~~
21 ~~case by case basis with respect to sanitary significance relative to actual or potential~~
22 ~~contamination and classification shall be made as necessary.~~

23 (6) ~~The cumulative impacts of multiple marinas, entrance canals, or other mooring areas, in close~~
24 ~~proximity to each other are expected to adversely affect public trust waters. When these situations~~
25 ~~occur the Division will recommend closures exceeding those outlined in Item (3)(2) of this Rule.~~
26 ~~The following guides will be used in determining close proximity:~~

27 (a) ~~marina entrance canals within 225 feet of each other;~~

28 (b) ~~open system marinas within 450 feet of each other (Mooring areas shall be considered~~
29 ~~open system marinas);~~

30 (c) ~~where closure areas meet or overlap; and~~

31 (d) ~~open system marinas within 300 feet of a marina entrance canal.~~

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33 *History Note: Authority G.S. 130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;*

34 *Eff. June 1, 1989;*

35 *Amended Eff. July 1, 1993;*

36 *Readopted Eff. May 1, 2023.*

