

# DECISION DOCUMENT

## Hard Clam Fishery Management Plan Amendment 3



This document was developed by the Division of Marine Fisheries to help the Marine Fisheries Commission track previous activity and prepare for upcoming actions for the Hard Clam FMP Amendment 3.

May 2025

## Summary

At their March 2025 Business Meeting, the Marine Fisheries Commission (MFC) selected their preferred management options for Amendment 3 to the Hard Clam Fishery Management Plan (FMP). The draft FMP was revised to include these selected options and then provided to the Secretary of the North Carolina Department of Environmental Quality. The Secretary submitted the draft FMP to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources (AgNER) for their 30-day review period (N.C. General Statute § 113-182.1(e)). The draft FMP will be provided to the MFC for their vote on final adoption of Amendment 5 at their May 2025 Business Meeting.

This revised Decision Document includes the MFC preferred management options selected at the March 2025 Business Meeting and the suite of management options and rationale behind them that were provided to the MFC for their consideration at that meeting.

## 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. Only wild clam harvest issues and management strategies are considered in Amendment 3.

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 of Marine Fisheries (DMF) to adequately collect recreational landings data. This data gap has been cited as a major need in all past FMPs and needs to be addressed to account for all removals from the populations. These data are needed for future stock assessments of Hard Clams and Eastern Oysters. Additionally, shellfish harvest is subject to changing area closures due to human health and safety concerns. Without licensing or permitting requirements, the DMF is unable to ensure that every recreational harvester is informed of shellfish sanitation concerns. The draft 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 December 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. Historically, the use of mechanical gear to harvest clams made up an important portion of total clam harvest.

However, mechanical clam harvest fishery from public bottoms has sharply declined since the 1990s, reaching historic lows in both participation and landings.

The Hard Clam FMP Amendment 2 included a management strategy to allow harvesters access to clams before maintenance dredging. This allowance continues through 15A NCAC 03K .0301 (b); and through communication with the US Army Corps of Engineers on their schedule to ensure timely notification of dredging activities. This activity has not occurred since 2007.

Historically significant, the mechanical clam fishery has seen substantial reductions due to habitat impacts, pollution, market changes, and environmental events. With significant habitat concerns regarding SAV and oyster beds, diminishing economic value, and high management costs, management options for the fishery's future are provided.

## Amendment Timing

*(gray indicates completed step)*

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

You are here

## Goal and Objectives

The goal of the 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.

## Management Measures

### Management Carried Forward in Amendment 3

There are management measures from the original FMP to carry forward into Amendment 3 unless otherwise changed in Amendment 3. Management measures from the Hard Clam FMP Amendment 2 that will be carried forward into Amendment 3 are listed below:

- Maintain shading requirements for clams on a vessel, during transport to a dealer, or storage on a dock during June through September. These requirements would be implemented as a public health protection measure under 15A NCAC 03K .0110.
- Maintain management of the Ward Creek Shellfish Management Area as described in the Hard Clam FMP Amendment 1.
- Maintain current daily mechanical Hard Clam harvest limits by waterbody.
- Institute a resting period within the mechanical clam harvest area in the northern part of Core Sound.
- Take latitude/longitude coordinates of the poles marking the open mechanical clam harvest area boundary in the New River, still with the flexibility to move a line to avoid critical habitats.
- Maintain management of the mechanical clam harvest in existing areas from Core Sound south to Topsail Sound, including modifications to the mechanical clam harvest lines to exclude areas where oyster habitat and submerged aquatic vegetation (SAV) habitat exist based on all available information.

## MFC Selected Management Measures

Outlined below are the preferred management options by issue selected in March 2025 by the MFC for Amendment 3 to the Hard Clam FMP.

### Recreational Harvest

- Support the DMF to further explore potential options and develop a solution to estimate recreational shellfish participation and landings, with the intent to move towards a stock assessment and stock level management for both hard clams and oysters; 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

- Phase out mechanical clam harvest in three years (May 2028) to be consistent with G.S. 113-221 (d).
- Discontinue allowance for mechanical clam harvest in conjunction with maintenance dredging upon adoption of this plan

## Suite of Management Options Presented

*(Options outlined in blue represent MFC's preferred option selected in March 2025 and DMF's recommendation)*

### Recreational Harvest

Implementing a licensing or permitting requirement for recreational shellfish harvesters would give the DMF the opportunity to adequately collect recreational landings data needed for future stock assessments of Hard Clams and Eastern Oysters, and 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 DMF or MFC control. Given these constraints, DMF recommends exploring potential options and solutions outside of the FMP process.

### *Option 1: Recreational Harvest*

*(Refer to pp. 68-75 in the Draft Hard Clam FMP Amendment 3, Appendix 2 for additional details)*

- a. Status Quo
- b. Support the DMF to further explore potential options and develop a solution to estimate recreational shellfish participation and landings, with the intent to move towards a stock assessment and stock level management for both hard clams and oysters; and to establish a mechanism to provide all recreational shellfish harvesters with SSRWQ health and safety information outside of the FMP process.

### **Mechanical Clam Harvest**

Due to the requirements of G.S. 113-221 (d), it is unlikely that the mechanical clam harvest fishery could be ended immediately 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”. As such, the DMF did not include the immediate end to the mechanical clam harvest fishery as a possible management option. Other possible management options include, but are not limited to, status quo, 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.

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 (See Figure 22 in the draft FMP). 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, 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 habitat concerns, as well as cost concerns with demarcation and enforcement. 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 DMF developed an option for a phase out timeframe of three years from adoption of this amendment unless minimum participation and landings increases occur in the fishery in any year prior to 2027. This increase in participation and landings would show the fishery is no longer diminishing. Historical fisheries data were examined to develop potential thresholds for the minimum participation and landings that would signal renewed participation in the fishery. A reasonable threshold for participants in the mechanical clam harvest fishery on public bottom is ten participants. 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). A reasonable threshold for landings in the mechanical clam harvest fishery on public bottom is one-million clams. The fishery has not landed over one million clams since 2014 (1.5 million clams) and the threshold is over six times the number landed in 2022 (less than 200,000 clams), but still less than an eighth of the peak landings in 1995 (8.2 million clams). In this option, if both thresholds are met in any single year prior to January 2027, the issue would be brought back to the MFC for consideration at their next business meeting. The MFC 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).

There is a potential that setting participation and landing thresholds that trigger reconsideration by the MFC for phasing out the fishery may have an unintended consequence. Fishermen may re-enter this fishery in the near term in an effort to maintain it as an option in the long term. Based on the habitat degradation effects of mechanical clam harvest, along with the aforementioned DMF resources needed for demarcation and enforcement of management areas, the DMF recommends the phasing out of this gear within three years without triggers for reconsideration of the phase out.

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).

ending the allowance for mechanical clam harvest in conjunction with maintenance dredging activities.

*Option 1: Mechanical Clam Harvest*

*(Refer to pp. 55-67 in the Draft Hard Clam FMP Amendment 3, Appendix 1 for additional details)*

- a. Status Quo
- b. Further limit mechanical clam harvest areas to improve enforceability and protect habitat
- c. Phase out mechanical clam harvest in three years (May 2028) to be consistent with G.S. 113-221 (d) unless two metrics are met that signify increased participation and landings in the fishery
- d. Phase out mechanical clam harvest in three years (May 2028) to be consistent with G.S. 113-221 (d)

*Option 2: Mechanical Clam Harvest in Conjunction with Maintenance Dredging*

*(Refer to pp. 55-67 in the Draft Hard Clam FMP Amendment 3, Appendix 1 for additional details)*

- a. Status Quo
- b. Discontinue allowance for mechanical clam harvest in conjunction with maintenance dredging upon adoption of this plan

## Next Steps

The MFC selected their preferred management options at their March 2025 Business Meeting. The draft FMP was revised to include these selected options and then provided to the Secretary of the North Carolina Department of Environmental Quality. The Secretary submitted the draft FMP to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources (AgNER) for their 30-day review period (N.C. General Statute § 113-182.1(e)). At the May 2025 business meeting, the MFC will be presented any comments from the review and will vote on the final adoption of measures for the Hard Clam FMP Amendment 3. After adoption, the DMF will immediately begin implementation of the adopted management measures.