

1 15A NCAC 18A .0911 is readopted with changes as published in 37:07 NCR 541-542 as follows:

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3 **15A NCAC 18A .0911 ~~MARINAS: MARINAS, DOCKING FACILITIES: FACILITIES, AND OTHER~~**
4 **~~MOORING AREAS~~**

5 ~~Classification of shellfish [Shellfish]~~ **The Division of Marine Fisheries shall classify shellfish** growing waters with
6 respect to marinas, docking facilities, and other mooring areas **shall be done [classified]** **in accordance with the**
7 **following as follows:**

- 8 (1) **All the Division shall classify all** waters within the immediate vicinity of a marina **shall be classified**
9 as prohibited to the harvesting of shellfish for human **consumption consumption; and**
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:~~

Number of Slips in Marina	Size of Prohibited Area (Feet)	
	Open System	Closed System
11—25	100	200
26—50	150	275
51—75	175	325
76—100	200	400

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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 private~~
37 ~~or residential marinas with more than 75 slips shall require a prohibited area of the number of feet determined above,~~

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

4 (2) the Division [~~of Marine Fisheries~~] shall conduct a dilution [~~analysis~~] analysis, in the form of a
5 volumetric calculation or in-field hydrographic study, to determine [the minimum extent of the area
6 adjacent to a marina that shall be classified as prohibited to the harvesting of shellfish for human
7 consumption. The prohibited area shall be sized]the volume of water necessary to dilute the
8 concentration of fecal coliform bacteria to less than 14 [MPN, as determined by the dilution analysis.
9]MPN. The Division shall classify the water area determined by this dilution analysis as prohibited
10 to the harvesting of shellfish for human consumption. The Division shall conduct the dilution
11 analysis [shall be conducted] yearly and shall incorporate the following:

12 (a) the findings of the shoreline survey, including the presence of a sewage pumpout system
13 or dump station; [~~and~~]

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

15 (c) for marinas, docking facilities, and mooring areas in close proximity to one another, slip
16 counts and services shall be combined for the purposes of the dilution analysis. Marinas,
17 docking facilities, and mooring areas, each with three slips or more, shall be considered to
18 be in close proximity to one another if the dilution analysis for each individual facility
19 indicates that the dilution areas meet or overlap.

20 (4) (3) After a marina is put in use water quality impacts of marina facilities may require a change in
21 classification. In determining if a change in classification is necessary, marina design, marina usage,
22 dilution, dispersion, bacteriological, hydrographic, meteorological, and chemical factors will be
23 considered. [~~slip counts and services for marinas, docking facilities, and mooring areas in close~~
24 ~~proximity to one another shall be combined for the purposes of determining the necessary prohibited~~
25 ~~area as required in Items (1) and (2) of this Rule. Docking facilities and mooring areas each with~~
26 ~~three slips or more and marinas shall be considered to be in close proximity to one another if the~~
27 ~~dilution analysis indicates that the necessary dilution areas meet or overlap.]~~

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

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

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

36 (b) open system marinas within 450 feet of each other (Mooring areas shall be considered open
37 system marinas);

- 1 ~~(c) where closure areas meet or overlap; and~~
- 2 ~~(d) open system marinas within 300 feet of a marina entrance canal.~~

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4 *History Note: Authority G.S. ~~130A-230; 113-134; 113-182; 113-221.2; 143B-289.52;~~*
5 *Eff. June 1, 1989;*
6 *Amended Eff. July 1, 1993;*
7 *Readopted Eff. June 1, 2023.*