

Burgos, Alexander N

Subject: FW: [External] RE: Request to object to Rules 15A NCAC 07H .0208 and 15A NCAC 07M .0603
Attachments: Floating-Upweller-Jun-2023.pdf

From: Keith Larick <keith.larick@ncfb.org>

Sent: Thursday, June 8, 2023 2:07 PM

To: rrc.comments <rrc.comments@oah.nc.gov>; Everett, Jennifer <jennifer.everett@deq.nc.gov>

Subject: [External] RE: Request to object to Rules 15A NCAC 07H .0208 and 15A NCAC 07M .0603

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Please see the attached document to serve as Attachment 1 for my previously submitted comments.

Thanks,
Keith Larick

Keith Larick
Natural Resources Director
North Carolina Farm Bureau Federation
Phone: (919) 987-1257
Cell: (919) 749-5293
www.ncfb.org

OYSTER
AQUACULTURE
NURSERY
EQUIPMENT

Floating Upweller

Maximum efficiency, minimum maintenance.

Description

100K-10K per silo 4mm-8mm Seed | Average Growth Rate - .5-1mm Per Week

Hoopers Island Oyster Co's floating upwellers are specially designed in-house for low maintenance and high efficiency. The unique design incorporates a basket/silo combination to allow easy access to your seed and extend the animals further down into the water column creating more water pressure and higher water flow. Water flow from individual silos is dumped into a centrally located trough with a well and mounted pump to eliminate cavitation.

Features

All components are constructed on a fiberglass mold using industrial grade fiberglass and polyester resin. Products are finished on both sides with a polyester gel coat. Our tank upweller and floating upweller combo can handle 1-2 million seed per season. Production can be increased by adding additional floating upwellers.

Benefits

- Easy access to seed for cleaning & grading
- Low maintenance/High efficiency
- Extends oysters further into water column to increase water pressure and float rates

Unit Components

- ¾ HP Ice Eater Pump
- 8 Silo/Basket Combinations
- One trough
- Two 4'x8'x1' floating dock floats
- One 8'x20' deck

Complete Unit Price

- Closed Deck \$10,945.00
- Pick up in Cambridge or we ship worldwide*

Terms

- Lead time is approximately 30 days from placing a 50% deposit
- Extended Spring lead time due to order volume
- Full payment required prior to shipping
- Add 3% for credit card orders



Oyster
farming
the
watermen's
way

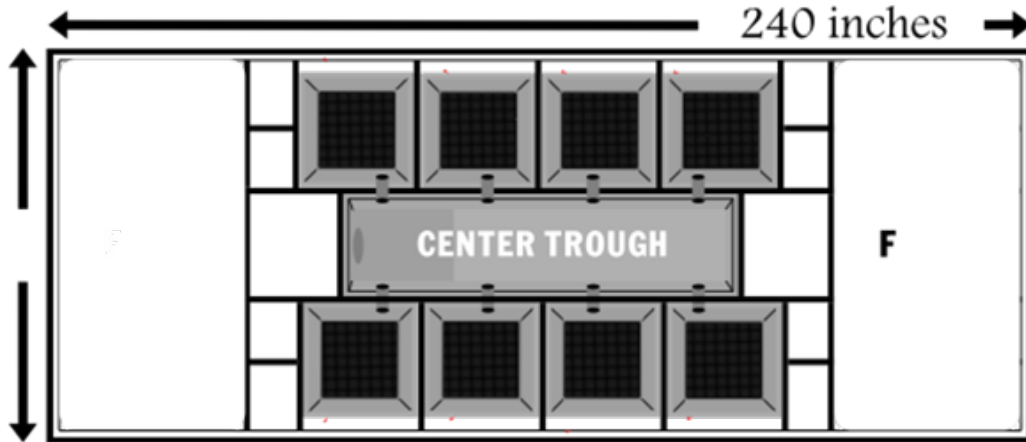


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(410) 397-3664 • www.HoopersIsland.com

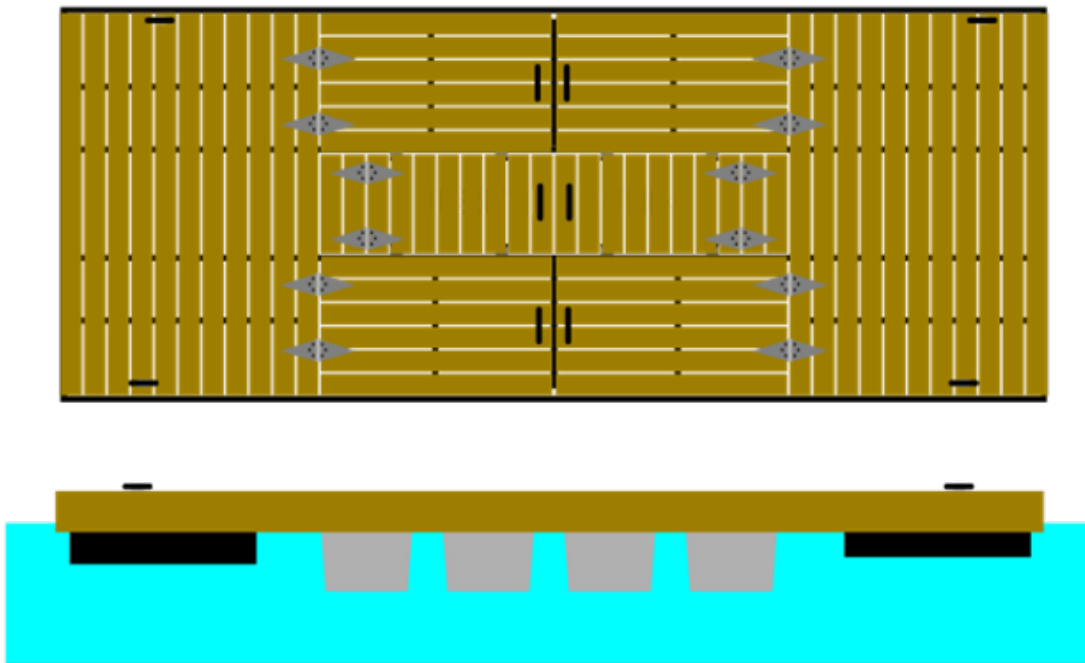
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SILO/BASKET



SILO/BASKET



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Burgos, Alexander N

Subject: FW: [External] Request to object to Rules 15A NCAC 07H .0208 and 15A NCAC 07M .0603
Attachments: RRC Comments for CRC Rules 6-8-2023.pdf

From: Keith Larick <keith.larick@ncfb.org>
Sent: Thursday, June 8, 2023 1:52 PM
To: rrc.comments <rrc.comments@oah.nc.gov>; Everett, Jennifer <jennifer.everett@deq.nc.gov>
Subject: [External] Request to object to Rules 15A NCAC 07H .0208 and 15A NCAC 07M .0603

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Dear Rules Review Commissioners,

Please see the attached comments from the North Carolina Farm Bureau Federation requesting the Rules Review Commission to object to rules 15A NCAC 07H .0208 and 15A NCAC 07M .0603.

Thank you,
Keith Larick

Keith Larick
Natural Resources Director
North Carolina Farm Bureau Federation
Phone: (919) 987-1257
Cell: (919) 749-5293
www.ncfb.org

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.



**NORTH CAROLINA
FARM BUREAU FEDERATION, INC.**

PO Box 27766, Raleigh, NC 27611 Phone: 919-782-1705 Fax: 919-783-3593 www.ncfb.org

June 8, 2023

North Carolina Rules Review Commission
1711 New Hope Church Rd.
Raleigh, NC 27609

Re: Rules 15A NCAC 07H .0208 and 15A NCAC 07M .0603

The North Carolina Farm Bureau Federation (NCFB) is North Carolina's largest general farm organization, representing the interests of farm and rural people in our State. Please accept these comments from NCFB related to Coastal Resource Commission Rules 15A NCAC 07H .0208 and 15A NCAC 07M .0603. NCFB opposes these rules for the reasons outlined below and requests that the Rules Review Commission formally object to them. These rules are not authorized by state or federal law and do not serve the public interest as required by G.S. 150B-19.1, and are outside of the regulatory authority delegated to the Coastal Resources Commission and Department of Environmental Quality by the General Assembly as required by G.S. 150B-21.9.

Floating Upweller Systems (FLUPSYs) are part of the normal and incidental operations to nursery-rear juvenile shellfish to an appropriate size for field grow-out. FLUPSYs are a critical piece of agricultural equipment that helps a farmer to plant, grow, and harvest shellfish crops in an economically viable way. This is their only use – they are not used for recreation or other commercial purposes. FLUPSYs are currently kept at private docks, private docks within water column shellfish leases, remote water column shellfish leases, and marinas. They are essential equipment for shellfish farmers that improve our estuaries. They are by no means a nuisance, and should not be treated as such.

The industry-standard size for a FLUPSY on the east coast of the United States is 8'x20' (see Attachment 1). FLUPSYs can be launched and removed using a boat trailer and a boat ramp and are similar in size to a Carolina Skiff. They are most often tied to a dock or anchored inside a shellfish lease, like a boat.

As the comments below demonstrate, the Coastal Resources Commission has adopted these rules in violation of the Administrative Procedures Act, and the Rules Review Commission should act under their authority to object.

The Legislature has Specifically Granted Authority over Shellfish Cultivation to other Agencies:
The General Assembly, through G.S. 113-201(b), has clearly granted authority over regulation of shellfish aquaculture to the Marine Fisheries Commission.

G.S. 113-201(b).

The Marine Fisheries Commission is empowered to make rules and take all steps necessary to develop and improve the cultivation, harvesting, and marketing of shellfish in North Carolina from both public grounds and private beds. In order to assure the public that some waters will remain open and free from shellfish cultivation activities, the Marine Fisheries

*Farm Bureau and Agriculture...
We keep North Carolina growing!*

Commission may limit the number of acres in any area that may be granted as shellfish cultivation leases.

If the General Assembly had intended for the Coastal Resources Commission to further regulate oyster aquaculture, it would have granted them that authority in the Coastal Area Management Act (CAMA). It did not, and as outlined below, it in fact did the opposite. As a result, these rules are in violation of the Administrative Procedures Act.

The Coastal Area Management Act Expressly Exempts Agriculture from the Development Definition and its Associated Permitting Requirements:

To further expand on the lack of authority to issue these rules, the General Assembly has expressly prohibited the Coastal Resources Commission from regulating agriculture, and oyster aquaculture through its definition of Development.

NCGS § 113A-103. Definitions.

(5)a. "Development" means any activity in a duly designated area of environmental concern (except as provided in paragraph b of this subdivision) involving, requiring, or consisting of the construction or enlargement of a structure; excavation; dredging; filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alteration of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal; or placement of a floating structure in an area of environmental concern identified in G.S. 113A-113(b)(2) or (b)(5).

(5)b. The following activities including the normal and incidental operations associated therewith shall not be deemed development under this section:

...4. The use of any land for the purposes of planting, growing, or harvesting plants, crops, trees, or other agricultural or forestry products, including normal private road construction, raising livestock or poultry, or for other agricultural purposes except where excavation or filling affecting estuarine waters (as defined in G.S. 113-229) or navigable waters is involved;

Oyster Farming is Agriculture and Therefore Exempt from the Coastal Area Management Act:

Oyster farming clearly falls under the definition of agriculture in G.S. 106-581 and G.S. 106-758, and as a result is exempt from the Development definition in CAMA. It is not just Farm Bureau that feels this way. The Department of Environmental Quality (DEQ) itself, through the Division of Marine Fisheries (DMF), permits oyster farms as agriculture by issuing an Aquaculture Operation Permit on top of their leasing process.

The General Statutes define aquaculture as agriculture:

G.S. 106-581.1. Agriculture defined.

For the purposes of this Article, the terms "agriculture", "agricultural", and "farming" refer to all of the following:

(4) Aquaculture as defined in G.S. 106-758

The Aquaculture Development Act (G.S. 160-758) then defines aquaculture and aquaculture facilities (G.S. 106-758), and defines oysters (mollusks) as aquatic species under the Act:

G.S. 106-758. Definitions.

In addition to the definitions in G.S. 113-129, the following definitions shall apply as used in this Article,


- (1) "Aquaculture" means the propagation and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching;*
- (2) "Aquaculture facility" means any land, structure or other appurtenance that is used for aquaculture, including, but not limited to, any laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment used in aquaculture;*
- (3) "Aquatic species" means any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant, and including, but not limited to, "fish" and "fishes" as defined in G.S. 113-129(7);*

All of the equipment used by oyster growers, including FLUPSYs, is permitted through the Aquaculture Operation Permit issued by DMF. The farming equipment proposed for regulation by these rules is used solely for shellfish production, and not for recreation or development under CAMA. As a result, a FLUPSY is part of an "aquaculture facility" under the Aquaculture Development Act, and a "normal and incidental operation" associated with agriculture as stated by G.S. 113A-103(5)b under CAMA.

The NC Department of Agriculture, NC Department of Revenue, US Department of Agriculture, and the Internal Revenue Service all recognize shellfish growers as farmers. The Division of Coastal Management and the Coastal Resource Commission refuse to recognize this reality and are attempting to force shellfish farmers to get major development permits and/or variances to deploy and use industry-standard farming equipment. These rules clearly exceed the authority granted to the Coastal Resources Commission by the General Assembly and therefore violate the Administrative Procedures Act.

Again, NCFB asks that the Rules Review Commission formally object to rules 15A NCAC 07H .0208 and 15A NCAC 07M .0603. Thank you for the opportunity to submit these comments. If you have any questions or would like to discuss, please contact me at (919) 987-1257 or keith.larick@ncfb.org.

Sincerely,



Keith Larick
Natural Resources Director

Burgos, Alexander N

From: chris chadwickcreek.com <chris@chadwickcreek.com>
Sent: Wednesday, June 7, 2023 4:51 PM
To: Everett, Jennifer; Everett, Jennifer
Cc: chris chadwickcreek.com; rrc.comments
Subject: [External] FW: Request to reject changes to Rules 15A NCAC 07H .0208 and 15A NCAC 07M .0603
Attachments: NCSGA Request to Reject Proposed Changes to Rules_060723.pdf.pdf

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Jennifer,

Attached please find a PDF document requesting the RRC reject the rule changes that will empower DCM to regulate FLUPSYs as floating structures. I have CC'ed the RRC to let it know that I have satisfied the requirement to share a copy with DEQ.

Please confirm that you have received the attached document.

Thanks in advance,

Chris Matteo
919-360-2278

From: chris chadwickcreek.com <chris@chadwickcreek.com>
Sent: Wednesday, June 7, 2023 2:12 PM
To: rrc.comments@oah.nc.gov
Cc: chris chadwickcreek.com <chris@chadwickcreek.com>
Subject: Request to reject changes to Rules 15A NCAC 07H .0208 and 15A NCAC 07M .0603

Dear Rules Review Commissioners,

I respectfully ask the Rules Review Commission to reject the revisions to rules 15A NCAC 07H .0208 and 15A NCAC 07M .0603.

In the attached letter I seek to demonstrate that:

- (1) The proposed rule changes are not authorized by state law due to an agricultural exception found within the Coastal Area Management Act ("CAMA") that states that farming activities cannot be defined or regulated as development.
- (2) The proposed rule changes are not necessary to serve the public interest.
- (3) DCM/CRC is substantially increasing the burden upon shellfish farmers who must comply with the rule changes.
- (4) DCM/CRC is pursuing a rule change that is unnecessary and redundant.
- (5) The proposed rule changes are not based on sound, reasonably available scientific, technical, economic, and other relevant information.

(6) The proposed rules are not designed to achieve the regulatory objective in a cost-effective and timely manner.

Thank you in advance for your consideration.

Chris Matteo
President of N.C. Shellfish Growers Association
Vice President of East Coast Shellfish Growers Association
Oyster Farmer and Oyster Seed Nursery Owner
chris@chadwickcreek.com
919-360-2278



6/7/2023

**N.C. Rules Review Commission
1711 New Hope Church Rd.
Raleigh, NC 27609**

Re: Rules 15A NCAC 07H .0208 and 15A NCAC 07M .0603

I respectfully ask the Rules Review Commission to reject the revisions to rules 15A NCAC 07H .0208 and 15A NCAC 07M .0603.

I seek the Rules Review Commission's assistance in remedying a clear case of regulatory overreach. This Floating Upweller System (FLUPSY) and floating structure topic has been debated for over four years by shellfish farmers, the Division of Coastal Management (DCM) and the Coastal Resource Commission (CRC). DCM/CRC continues to pursue rules that are clearly not authorized by state law and has wasted a tremendous amount of regulators and farmers' time and resources. Every day that this issue is not resolved negatively impacts shellfish farmers and impairs their ability to operate profitably and make business decisions.

In this letter I seek to demonstrate that:

- (1) The proposed rule changes are not authorized by state law due to an agricultural exception found within the Coastal Area Management Act ("CAMA") that states that farming activities cannot be defined or regulated as development.*
- (2) The proposed rule changes are not necessary to serve the public interest.*
- (3) DCM/CRC is substantially increasing the burden upon shellfish farmers who must comply with the rule changes.*
- (4) DCM/CRC is pursuing a rule change that is unnecessary and redundant.*
- (5) The proposed rule changes are not based on sound, reasonably available scientific, technical, economic, and other relevant information.*
- (6) The proposed rules are not designed to achieve the regulatory objective in a cost-effective and timely manner.*

(1) The proposed rule changes are not authorized by State law:

- Shellfish farmers lease submerged land from the State of North Carolina for the sole purpose of planting, growing, and harvesting crops. They have done so in this state for more than 163 years.
- Over the past ten years, this type of farming activity has been vigorously promoted by the N.C. General Assembly, N.C. Department of Agriculture, Sea Grant, the N.C. Coastal



Federation, North Carolina's colleges, the North Carolina Shellfish Growers Association, and many other groups, including recreational and commercial fisherman.

- The widespread support for shellfish farming exists because shellfish growers' crops filter and clean our estuarine waters (which positively impacts our fisheries, tourism, and coastal property values), provide a year-round source of very high-quality protein to our citizens, repopulate public trust stocks of marine species, and support rural economic development in the form of jobs.
- Shellfish farmers use FLUPSYs as part of their normal and incidental operations to nursery-rear juvenile shellfish to an appropriate size for field grow-out. FLUPSYs are a critical piece of agricultural equipment that helps a farmer to plant, grow, and harvest shellfish crops in an economically viable way. The industry-standard size on the east coast of the US is 8'x20' (see Appendix 1). FLUPSYs can be launched and removed using a boat trailer and a boat ramp and are similar in size to a Carolina Skiff. They are most often tied to a dock or anchored inside a shellfish lease, similar to a boat.
- Within the Coastal Area Management Act farming operations and activities are purposefully excepted from the definition of development, so normal farming activities are not subject to any CAMA development permits:

NCGS § 113A-103. Definitions.

(5) a. "Development" means any activity in a duly designated area of environmental concern (except as provided in paragraph b of this subdivision)...

b. The following activities including the normal and incidental operations associated therewith shall not be deemed to be development under this section:

4. The use of any land for the purposes of planting, growing, or harvesting plants, crops, trees, or other agricultural or forestry products, including normal private road construction, raising livestock or poultry, or for other agricultural purposes except where excavation or filling affecting estuarine waters (as defined in G.S. 113-229) or navigable waters is involved;

- All crops, livestock, and other agricultural and forestry products planted, grown, or harvested in North Carolina and the normal and incidental operations associated therewith are excepted from requiring a CAMA development permit. (Notably, bona fide farms, farm equipment and farm structures are exempt from county zoning in GS 160D-903. Agricultural uses.)
- According to the exception, the only farming activity that is subject to a CAMA development permit is excavating and filling in estuarine or navigable waters.



- Shellfish growers and their activities are clearly defined as agriculture in NC GS Chapter 106 – Agriculture:

§ 106-581.1. Agriculture defined.

For purposes of this Article, the terms "agriculture", "agricultural", and "farming" refer to all of the following:

(4) Aquaculture as defined in G.S. 106-758.

§ 106-758. Definitions.

In addition to the definitions in G.S. 113-129, the following definitions shall apply as used in this Article,

(1) "Aquaculture" means the propagation and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching;

(2) "Aquaculture facility" means any land, structure or other appurtenance that is used for aquaculture, including, but not limited to, any laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment used in aquaculture;

(3) "Aquatic species" means any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant, and including, but not limited to, "fish" and "fishes" as defined in G.S. 113-129(7);

- NC Department of Agriculture, NC Department of Revenue, U.S. Department of Agriculture, and the Internal Revenue Service all recognize shellfish growers as farmers. The Division of Coastal Management and the Coastal Resource Commission refuse to recognize this reality and are attempting to force shellfish farmers to get major development permits and / or variances to deploy and use industry-standard farming equipment. This is a clear case of overreach that must not be allowed to continue.
- In developing the rules in question, DCM and the CRC are wrongfully attempting to regulate excepted farm equipment and activities by expanding floating structure laws and rules. These laws and rules were designed to keep live-aboard houseboats and disabled traditional boats from anchoring in the same spot in coastal waters for more than thirty days in a row. The intent of the original rules was to prevent a potential nuisance in our estuaries, not to curtail a State-encouraged activity.
- FLUPSYs only have one use, to nursery-rear or incubate shellfish. FLUPSYs are currently kept at private docks, private docks within water column shellfish leases, remote water column shellfish leases, and marinas. They are essential equipment for shellfish farmers,



who produce food and improve our estuaries. They are by no means a nuisance and should not be treated as such.

(2) *The proposed rule changes are not necessary to serve the public interest:*

- It is well established in NC to be in the best interest of the public to promote the expansion of shellfish farming activities. Shellfish farmers enjoy overwhelming support from both sides of the political aisle, recreational fisherman, commercial fisherman, educators, and environmentalists.

§ 113-216. Legislative findings and declaration of policy. The General Assembly finds that development of a marine aquaculture industry in the State provides increased seafood production and long-term economic and employment opportunities. The General Assembly declares that it is the policy of the State to encourage the development of private, commercial marine aquaculture in ways that are compatible with other public uses of marine and estuarine resources such as navigation, fishing, and recreation.

- To fulfill the mandates laid out in Senate Bill 257, the North Carolina Policy Collaboratory formed the Shellfish Mariculture Advisory Committee (“SMAC”) to generate a report of findings and recommendations to the General Assembly. The SMAC membership represents academia, regulatory agencies, non-governmental organizations, and industry stakeholders to develop recommendations that would promote the growth of a socially, ecologically, and economically responsible shellfish mariculture industry. The SMAC developed a strategic plan which highlights that it is in the public interest to grow the shellfish farming industry to \$100mm of economic impact by 2030.
- It is not in the best interest of the public for DCM to ignore CAMA’s agricultural development exceptions. Agriculture is considered critical infrastructure, and a national security concern that must be protected and promoted. DCM/CRC’s desire to create onerous permitting requirements for shellfish farmers is contrary to the legislative intent to facilitate and grow this industry.
- Major permits and variances reserved for major coastal development activities are not necessary to serve the public interest. This type of permit or variance can take up to a year or more to be issued or denied and often requires costly legal advice. This unnecessary process is unacceptable to shellfish growers in this state and is contrary to the public’s interest in sustainable food production, job creation, and beneficial estuarine impacts.
- Currently, shellfish farmers filter over 1 billion gallons of estuarine water a day for free for the citizens of North Carolina. No other user of our estuaries can make a similar claim. FLUPSYs are a critical piece of farm equipment that underpins this effort.

(3) The Division of Coastal Management is substantially increasing the burden upon shellfish farmers who must comply with the rule changes:

- There is no legitimate reason to force shellfish farmers to get a CAMA Major Permit to deploy and use a FLUPSY. This is precisely what DCM is currently doing. About 22 of these units are already in use in NC, and to my knowledge not one complaint has ever been raised by the public about their use. A lengthy CAMA Major Permit process can take a year and involves thirteen state and federal agencies. This clearly increases the burden on shellfish farmers.
- Waterfront homeowners wanting to deploy a 8'x20' floating dock identical in size and similar in appearance to a FLUPSY simply have to get a CAMA general permit. This permit takes 25 days or less for DCM to approve.
- If waterfront homeowners were always required to apply for a CAMA Major permit instead of a general permit for a 8'x20' floating dock, what impact would this have on homeowners, the dock building industry, and the regulatory workload?

(4) DCM/CRC is pursuing a rule change that is unnecessary and redundant:

- DMF is within the same Department of Environmental Quality ("DEQ") where DCM resides. DMF already permits the on-land version of a FLUPSY nursery system (see Appendix 2) using the Aquaculture Operations Permit (AOP). The proposed rules are unnecessary and redundant because the proper permit already exists at DMF within DEQ.
- These on-land versions of FLUPSIs are only appropriate for growing very small shellfish seed. Once the seed reaches a particular size, it must be moved into a floating FLUPSY to continue its nursery growth to a larger size appropriate for field grow-out.
- Shellfish growers have maintained that FLUPSIs are agricultural equipment, not floating structures. As such, they can be permitted using the same AOP at DMF that enables shellfish grower farming activities and equipment, including the on-land version of the FLUPSY.
- AOPs are free annual permits issued quickly by one person at DMF, at no cost to shellfish growers. Limits and conditions can be developed for FLUPSIs in the AOP thereby mitigating CRC and DCM fears about the appropriate size and quantity of FLUPSIs at a given location.
- Having DMF limit size and quantity of permitted FLUPSIs is a superior regulatory approach because AOPs are renewed annually. Any grower that runs afoul of size limits, quantity, etc. can simply be denied an AOP renewal. When issued, CAMA Major Permits are permanent. FLUPSIs also need to be replaced over time as they age out. Will

subsequent CAMA Major Permits be required to simply replace a piece of agricultural equipment?

- DMF already regulates shellfish leases, operating permits, production monitoring, enforcement, sanitation, and licensing. DMF is the appropriate division to regulate FLUPSYs. In contrast, DCM must adhere to an agricultural exception to the definition of development found in CAMA that prevents it from regulating shellfish farming activities and FLUPSYs.
- On the federal level, all shellfish farming gear, equipment, floating structures, as well as planting, growing, and harvesting activities are already permitted under the U.S. Army Corp of Engineers Nationwide Permit 48 (“NW48”): Commercial Shellfish Mariculture Activities.
- The proposed rule changes would create redundant work for federal agencies, as the NW48 already permits shellfish farming gear, structures, and activities.

(5) The proposed rule changes are not based on sound, reasonably available scientific, technical, economic, and other relevant information:

- The rule changes in question were developed based on the personal opinions of a handful of people who lead the Division of Coastal Management and the Coastal Resource Commission. These leaders simply feel “that these systems should be regulated”, which has inspired them to overreach.
- The proposed rule changes are not based on any sound, reasonably available scientific, technical, economic, or legal information. DCM/CRC purposefully did not seek out subject matter experts in agriculture or agricultural law. DCM/CRC never sought input from agricultural lawyers in the Attorney General’s Office or experts from NC Department of Agriculture, the lead agency that regulates aquaculture.
- In addition, DCM/CRC never sought a proper Attorney General’s Opinion after one was promised to shellfish growers on this topic. However, a CRC staff attorney’s opinion was written (with the assistance of DCM personnel) and it is not an unbiased read of the law meant to solve this ongoing issue in a just fashion. I believe the opinion presented by the CRC’s staff counsel was personal in nature and designed from inception to justify CRC/DCM’s regulatory overreach.

(6) The proposed rules are not designed to achieve the regulatory objective in a cost-effective and timely manner:



- The regulatory objectives seem to be to permit FLUPSYs for shellfish farmers and place size and quantity limits on them based on linear shoreline calculations.
- There is nothing cost-effective or timely about getting thirteen state and federal agencies involved in a CAMA Major permitting process for a “major development” the size of a Carolina Skiff, that is legally exempt. The proposed permitting processes can take upwards of a year or more and wastes valuable time and resources for farmers and regulators. The same regulatory objectives could be accomplished by one member of DMF’s shellfish leasing team by permitting FLUPSYs using the existing Aquaculture Operations Permit.
- The economic impact of delaying or denying a shellfish grower the use of a FLUPSY averages \$150,000 per 8’x20’ unit per year.
- I can only speculate that the cost of engaging thirteen state and federal agencies personnel to analyze a CAMA Major Permit application over a year-long process must be at least 50-100 times the cost of having one person at DMF quickly issue an AOP or add a FLUPSYs to an existing AOP.
- Adding FLUPSYs to the Aquaculture Operations Permit would achieve the regulatory objective of DCM/CRC in a cost-effective and timely manner.

Again, I respectfully seek the Rules Review Commission’s assistance in remedying a clear case of regulatory overreach. Please reject the revisions to rules 15A NCAC 07H .0208 and 15A NCAC 07M .0603.

Thank you for your consideration.

Respectfully submitted,

*Chris Matteo
President of N.C. Shellfish Growers Association
Vice President of East Coast Shellfish Growers Association
Oyster Farmer and Oyster Seed Nursery Owner
chris@chadwickcreek.com
919-360-2278*

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EQUIPMENT

Floating Upweller

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Complete Unit Price

- Closed Deck \$10,945.00
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Terms

- Lead time is approximately 30 days from placing a 50% deposit
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Oyster
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the
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way

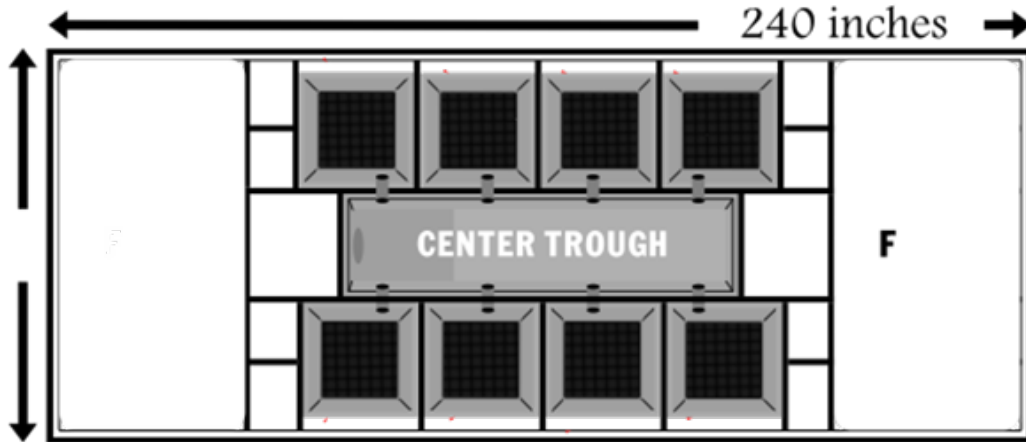


Main Office • 837 Chesapeake Drive • Cambridge, MD 21613
(410) 397-3664 • www.HoopersIsland.com

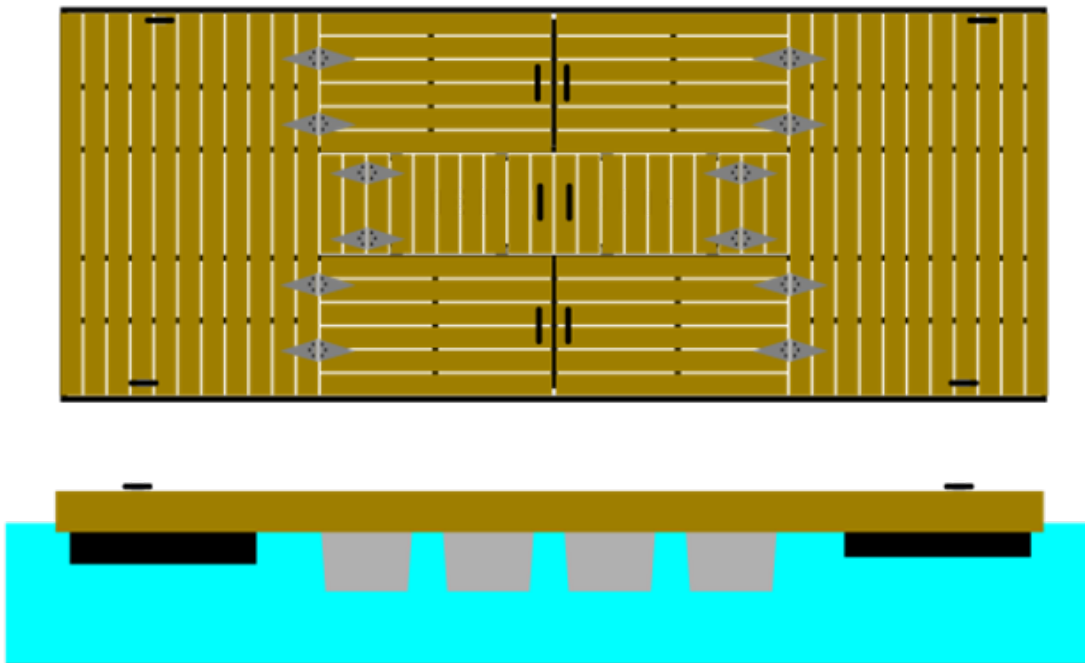
Floating Upweller

Maximum efficiency, minimum maintenance.

SILO/BASKET



SILO/BASKET



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OYSTER
AQUACULTURE
NURSERY
EQUIPMENT

Upweller/Downweller

High efficiency, low maintenance

Description

Hoopers Island Oyster Co's upgraded nursery tanks now have fiberglass silos. Our new fiberglass silos replace the PVC pipe silo series. This maximizes the surface area which increases stocking densities and eliminates the need for PVC pipe risers. The new design increases flow rates, translating to faster growth rates for your farm. Our tank has been specially designed in-house for high efficiency and low maintenance. This new design features a deeper sloped bottom and 4" drain to allow for quick and easy cleaning. The tank is elevated by stands and includes 12 silos. Our tanks allow for upwelling and downwelling, whichever is needed, and arrive ready to use with your pumps/plumbing.

Constructed of fiberglass, each unit includes a tank, silos, protective bottom guard and trough.

Specifications

- 10'6" x 5'2" Tank
- 10'6" x 10" trough
- (12) 17x17" silos equipped with polyester mesh and protective bottom guard

Price

Complete Unit \$8,950

Additional Silos (each)* \$ 245

**available in various mesh sizes*

Benefits

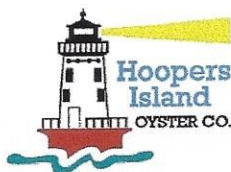
- Tanks with a sloped bottom and 4" drain for quick and easy cleaning
- Use as a static or flow through system
- High efficiency and low maintenance

Terms

- Lead time is approximately 30 days from placing a 50% deposit
- Extended Spring lead time due to order volume
- Full payment required prior to shipping
- Add 3% for credit card orders



Oyster
farming
the
watermen's
way



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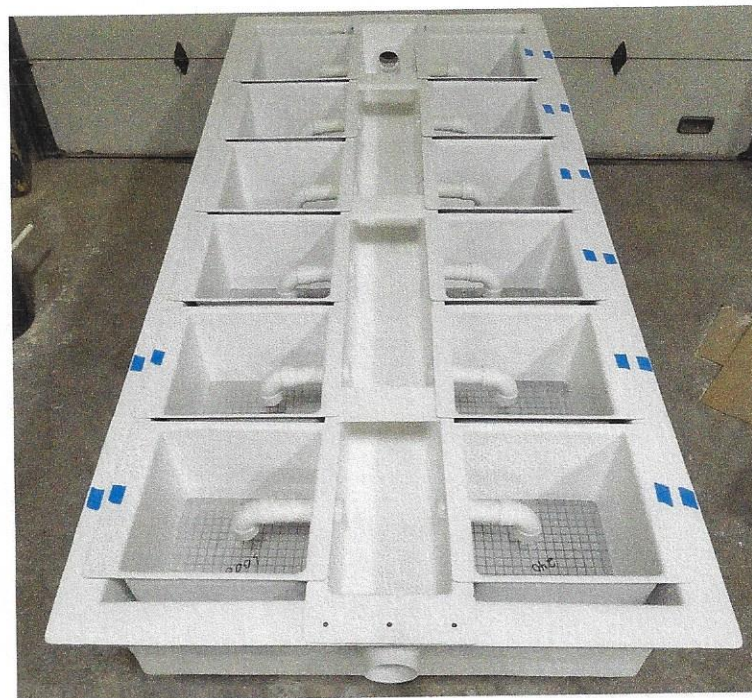
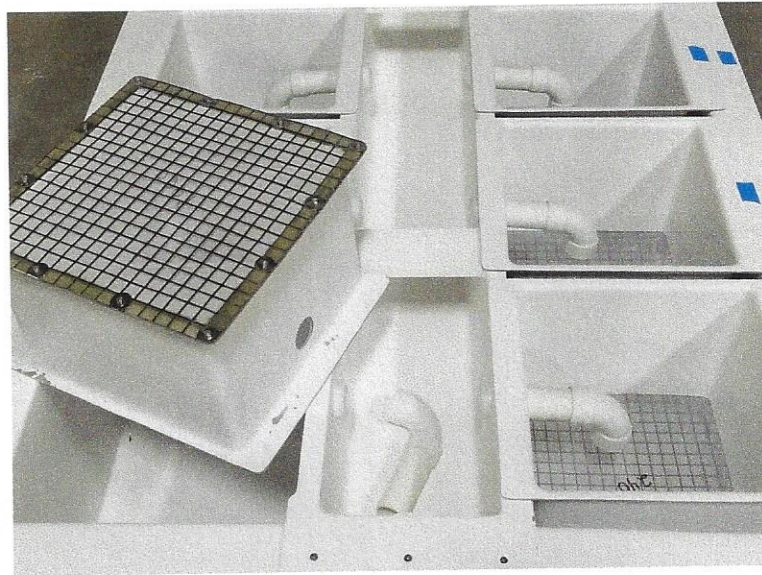
Upweller/Downweller

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Stocking Density

- 17x17-inch Silo – .5 liter/silo
 - 1mm seed = 600,000 per silo
 - 2mm seed = 270,000 per silo

One millimeter (1mm) of growth is expected per week, however, growth rates vary depending on many factors including environmental conditions.



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