



# NOTICE OF TEXT

[Authority G.S. 150B-21.2(c)]

**OAH USE ONLY**

VOLUME:

ISSUE:

CHECK APPROPRIATE BOX:

- Notice with a scheduled hearing  
 Notice without a scheduled hearing  
 Republication of text. Complete the following cite for the volume, issue, and date of previous publication, as well as blocks 1 - 4 and 7 - 13. If a hearing is scheduled, complete block 4.  
Previous publication of text was published in Volume:                      Issue:

1. Rule-Making Agency: North Carolina Wildlife Resources Commission

2. Agency website postings:

- Text of proposed rule posted at: <http://www.ncwildlife.org/About/MeetingsActions.aspx> - Under "Regulatory Updates"
- Explanation and reason for proposed rule posted at: Same as above.
- Federal Certification posted at: Federal certification not required. Not based on federal law.
- Instructions for oral and written comments posted at: Same as above
- Fiscal Note if prepared posted at: Same as above

3. Proposed Action -- Check the appropriate box(es) and list rule citation(s) beside proposed action:

ADOPTION:

AMENDMENT: 15A NCAC 10F.0330

REPEAL:

4. Proposed effective date: July 1, 2012

5. Is a public hearing planned?  Yes  No

If yes: Public Hearing date: March 2, 2012

Public Hearing time: 10:00 a.m.

Public Hearing Location: WRC, 1751 Varsity Drive, Raleigh, NC 27606

6. If no public hearing is scheduled, provide instructions on how to demand a public hearing: N/A

7. Explain Reason For Proposed Action: This rule would establish a "no-wake zone" in the waters of Carteret County at the Newport River Beach Access Boat Ramp in Morehead City north of the Highway 70 Bridge, and is necessary for public safety in a congested area (a)(14), as well as make several minor technical corrections.

**8. The procedure by which a person can object to the agency on a proposed rule:** Objections may be submitted in writing or via electronic mail during the comment period to C. Norman Young, Jr. (See box 12.)

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**9. The person to whom written comments may be submitted on the proposed rule:**

**Name:** Betsy Foard  
**Address:** North Carolina Wildlife Resources Commission  
1701 Mail Service Center  
Raleigh, North Carolina 27699-1721  
**Phone (optional):** (919) 707-0013  
**Fax (optional):**  
**E-Mail (optional):** betsy.foard@ncwildlife.org

**10. Comment Period Ends:** April 16, 2012

**11. Fiscal impact (check all that apply).**

**If this form contains rules that have different fiscal impacts, list the rule citations beside the appropriate impact.**

- State funds affected
- Environmental permitting of DOT affected  
Analysis submitted to Board of Transportation
- Local funds affected  
Date submitted to OSBM: January 6, 2012
- Substantial economic impact ( $\geq$ \$500,000)
- Approved by OSBM
- Approval by OSBM not required

**11. Rule-making Coordinator:** C. Norman Young, Jr.

**Address:** North Carolina Department of Justice, SSA  
9001 Mail Service Center  
Raleigh, North Carolina 27699-9001

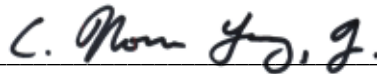
**Phone:** (919) 716-6813  
**E-Mail:** nyoung@ncdoj.gov

**Agency contact, if any:** Betsy Foard

**Phone:** (919) 707-0013

**E-mail:** betsy.foard@ncwildlife.org

**13. Signature of Agency Head\* or Rule-making Coordinator:**



**\*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

**Typed Name:** C. Norman Young, Jr.

**Title:** Rulemaking coordinator

1 **15A NCAC 10F .0330 CARTERET COUNTY is proposed for amendment as follows:**

2  
3 **15A NCAC 10F .0330 CARTERET COUNTY**

4 (a) Regulated Areas. This Rule applies to the following waters in Carteret County:

- 5 (1) the waters of Money Island Slough beginning at the east end of Money Island near the Anchorage  
6 Marina Basin and ending at the west end of Money Island where Brooks Avenue deadends at the  
7 slough;
- 8 (2) the waters of Taylor Creek located within the territorial limits of the Town of Beaufort;
- 9 (3) the waters of Pelletier Creek beginning at the entrance to Pelletier Creek at the Intracoastal  
10 Waterway and ending at U.S. Highway 70;
- 11 (4) the waters of Bogue Sound Harbor Channel in Morehead City between Sugar Loaf Island and the  
12 seawall on the south side of Evans, Shepard and Shackelford Streets and bounded on the east by  
13 the State Ports Authority and on the west by the eastern right-of-way margin of South 13th Street  
14 extended;
- 15 (5) the waters of Gallant's Channel from the US 70 crossing over the Grayden Paul bridge to Taylor's  
16 Creek;
- 17 (6) the waters of Cedar Island Bay and Harbor from ~~U.S. 70~~ N.C. Highway 12 to Cedar Island Bay  
18 Channel Light 8;
- 19 (7) the waters of the small cove on the west side of Radio Island ~~immediately south of the B & M~~  
20 ~~Railroad and US 70 Bridges across the Intracoastal Waterway in which Radio Island Marina and~~  
21 ~~Morehead Sports Marina are located as delineated by appropriate markers;~~ south of Old Causeway  
22 Road;
- 23 (8) the waters of the Newport River beginning at the north side of the Beaufort Drawbridge and  
24 ending at marker #6;
- 25 (9) the waters of Spooners Creek within the territorial limits of the Town of Morehead City as  
26 delineated by appropriate markers;
- 27 (10) the waters of Taylor's Creek from the eastern end of the current no wake zone eastward to Channel  
28 Marker #1A;
- 29 (11) the waters of the Newport River at Bogue Sound including all waters surrounding the Port of  
30 Morehead City to Brandt Island as delineated by appropriate markers; ~~and~~
- 31 (12) the waters of Morgans Creek as delineated by appropriate markers;
- 32 (13) the waters of Cannonsgate Marina and the Cannonsgate Marina Channel, beginning at its  
33 intersection with Bogue Sound at 34.70163 N, 76.98157 W as delineated by appropriate ~~markers.~~  
34 markers; and
- 35 (14) the waters of the Newport River at the Newport River Beach Access Boat Ramp, north of the  
36 Highway 70 bridge, beginning from the shore at a point at 34.72141 N, 76.68707 W, west to a

1 point at 34.72128 N, 76.68893 W, north to a point at 34.72376 N, 76.68911 N, then east to the  
2 shore at 34.72371 N, 76.68631 W.

3 (b) Speed Limit. It is unlawful to operate a motorboat or vessel at a speed greater than no-wake speed while on the  
4 waters of the regulated areas designated in Paragraph (a) of this Rule.

5 (c) Placement and Maintenance of Markers. The Board of Commissioners of Carteret County, with respect to the  
6 regulated areas designated in Subparagraphs (1), (3), (5), (6), (7), (8), (10), (12) and (13) of Paragraph (a) of this  
7 Rule, and the Board of Commissioners of the Town of Beaufort, with respect to the regulated area designated in  
8 Subparagraph (2) of Paragraph (a) of this Rule, and the Board of Commissioners of Morehead City, with respect to  
9 Subparagraph ~~(4) and (4), (9) (9), and (14)~~ of Paragraph (a) of this Rule, and the North Carolina ~~State~~ State Ports  
10 Authority, with respect to the regulated area designed in Subparagraph (11) of Paragraph (a) of this Rule are  
11 designated as suitable agencies for placement and maintenance of the markers implementing this Rule, subject to the  
12 approval of the United States Coast Guard and the United States Army Corps of Engineers.



# NOTICE OF TEXT

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- Federal Certification posted at: Federal certification not required. Not based on federal law.
- Instructions for oral and written comments posted at: Same as above
- Fiscal Note if prepared posted at: Same as above

3. Proposed Action -- Check the appropriate box(es) and list rule citation(s) beside proposed action:

ADOPTION:

AMENDMENT: 15A NCAC 10F.0354

REPEAL:

4. Proposed effective date: July 1, 2012

5. Is a public hearing planned?  Yes  No

If yes: Public Hearing date: March 2, 2012

Public Hearing time: 10:00 a.m.

Public Hearing Location: WRC, 1751 Varsity Drive, Raleigh, NC 27606

6. If no public hearing is scheduled, provide instructions on how to demand a public hearing: N/A

7. Explain Reason For Proposed Action: This rule would repeal a no-wake zone currently in existence at the Seine Beach area of the Tar River in Pitt County that is no longer necessary for public safety.

**8. The procedure by which a person can object to the agency on a proposed rule:** Objections may be submitted in writing or via electronic mail during the comment period to C. Norman Young, Jr. (See box 12.)

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**9. The person to whom written comments may be submitted on the proposed rule:**

**Name:** Betsy Foard  
**Address:** North Carolina Wildlife Resources Commission  
1701 Mail Service Center  
Raleigh, North Carolina 27699-1721  
**Phone (optional):** (919) 707-0013  
**Fax (optional):**  
**E-Mail (optional):** betsy.foard@ncwildlife.org

**10. Comment Period Ends:** April 16, 2012

**11. Fiscal impact (check all that apply).**

**If this form contains rules that have different fiscal impacts, list the rule citations beside the appropriate impact.**

- State funds affected
- Environmental permitting of DOT affected  
Analysis submitted to Board of Transportation
- Local funds affected  
Date submitted to OSBM: January 7, 2012
- Substantial economic impact (≥\$500,000)
- Approved by OSBM
- Approval by OSBM not required

**11. Rule-making Coordinator:** C. Norman Young, Jr.

**Address:** North Carolina Department of Justice, SSA  
9001 Mail Service Center  
Raleigh, North Carolina 27699-9001

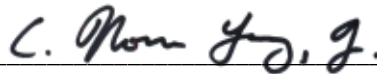
**Phone:** (919) 716-6813  
**E-Mail:** nyoung@ncdoj.gov

**Agency contact, if any:** Betsy Foard

**Phone:** (919) 707-0013

**E-mail:** betsy.foard@ncwildlife.org

**13. Signature of Agency Head\* or Rule-making Coordinator:**



**\*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

**Typed Name:** C. Norman Young, Jr.

**Title:** Rulemaking coordinator

1 **15A NCAC 10F .0354 PITT COUNTY is proposed for amendment as follows:**

2

3 **15A NCAC 10F .0354 PITT COUNTY**

4 (a) Regulated Areas. This Rule applies to the waters described in this Paragraph:

5 (1) The entire inlet of Hardee Creek from the Tar River in Pitt County; and

6 ~~(2) The Seine Beach area of the Tar River beginning at Chicod Creek and extending to the east side~~  
7 ~~of the Grimesland Bridge as marked by appropriate markers; and~~

8 ~~(2)~~ (2) that portion of Tranters Creek beginning at a line, shore to shore, from a point at 35.56925 N,  
9 77.09138 W and ending at a line, shore to shore, to a point at 35.56703 N, 77.08981 W as delineated by appropriate  
10 markers.

11 (b) Speed Limit. No person shall operate a motorboat or vessel at greater than no-wake speed within the regulated  
12 areas described in Paragraph (a) of this Rule.

13 (c) Placement and Maintenance of Markers. The Board of Commissioners of Pitt County is designated a suitable  
14 agency for placement and maintenance of markers implementing this Rule.



ROY COOPER  
ATTORNEY GENERAL

State of North Carolina  
Department of Justice  
9001 Mail Service Center  
RALEIGH, NORTH CAROLINA  
27699-9001

REPLY TO:  
C. NORMAN YOUNG, JR.  
SERVICE TO STATE AGENCIES  
PHONE: 919-716-6800  
FAX: 919-716-6755  
E-MAIL: NYOUNG@NCDOJ.GOV

January 6, 2012

Fiscal Note Review of  
Proposed Wildlife Resources Commission (WRC) "No-Wake Zone" Rule  
(15A NCAC 10F .0330)

*Contact:* Norman Young  
Counsel and Rulemaking Coordinator  
North Carolina Wildlife Resources Commission

*Impact:* State government: No  
Local government: Yes  
Substantial impact: No

*Authority:* G.S. 75A-3; 75A-15

This rule would establish a "no-wake zone" in the waters of Carteret County at the Newport River Beach Access Boat Ramp in Morehead City north of the Highway 70 Bridge as indicated by the proposed changes. (See Appendix).

For reasons which will be outlined below, WRC believes that this rule does not meet the criteria requiring a comprehensive fiscal note pursuant to G.S. § 150B-21.4, and requests certification and approval based on the following fiscal information.

**STATE IMPACT ANALYSIS:** The agency has concluded that there will be no cost to the State for the following reasons:

\* The Town of Morehead City has requested this no-wake zone and will be paying for the cost of appropriate markers.

\* WRC has surveyed the site and concurs that there are safety hazards that would be addressed by the requested "no-wake" zone.

\* This rule is intended to accomplish the agency's mandate to provide for the safety of boaters and other members of the public, and is part of a regulatory program

enforced by WRC's Division of Enforcement. The proposed change will not require any additional staffing or costs to WRC for enforcement as this is already an active patrol area.

**LOCAL IMPACT ANALYSIS:** WRC has concluded that the cost to the Town of Morehead City will be approximately \$7,750.00, based on the following:

\* The proposed no-wake zone is at the request of the Town of Morehead City to minimize the risk of boat collisions in a highly congested area.

\* The cost of placement of markers is based on input from the Town of Morehead City for four (4) no wake buoys with concrete anchors attached with chain and cable at a cost of \$7,750.00.

**SUBSTANTIAL ECONOMIC IMPACT ANALYSIS:** WRC has concluded that there will be no substantial economic impact to the public as a result of the adoption of this proposal for the following reasons:

\* Based on its site survey, WRC does not believe that there will be any appreciable economic impact to the public. The users will benefit from this rule due to the enhanced safety of the area by no-wake passage near the shoreline and the zone will not result in any measurable economic loss or gain to the public.

\* However, boating safety will be enhanced by the implementation of this rule, resulting in less likelihood of personal injury or property damage which is a potential positive economic benefit to the public, although one which is impossible to quantify or reasonably estimate.

Accordingly WRC has determined that the economic impact to the public is minimal to none, and does not meet the threshold impact requirement of \$500,000 annually.

## APPENDIX

### 15A NCAC 10F .0330 CARTERET COUNTY is proposed for amendment as follows:

#### 15A NCAC 10F .0330 CARTERET COUNTY

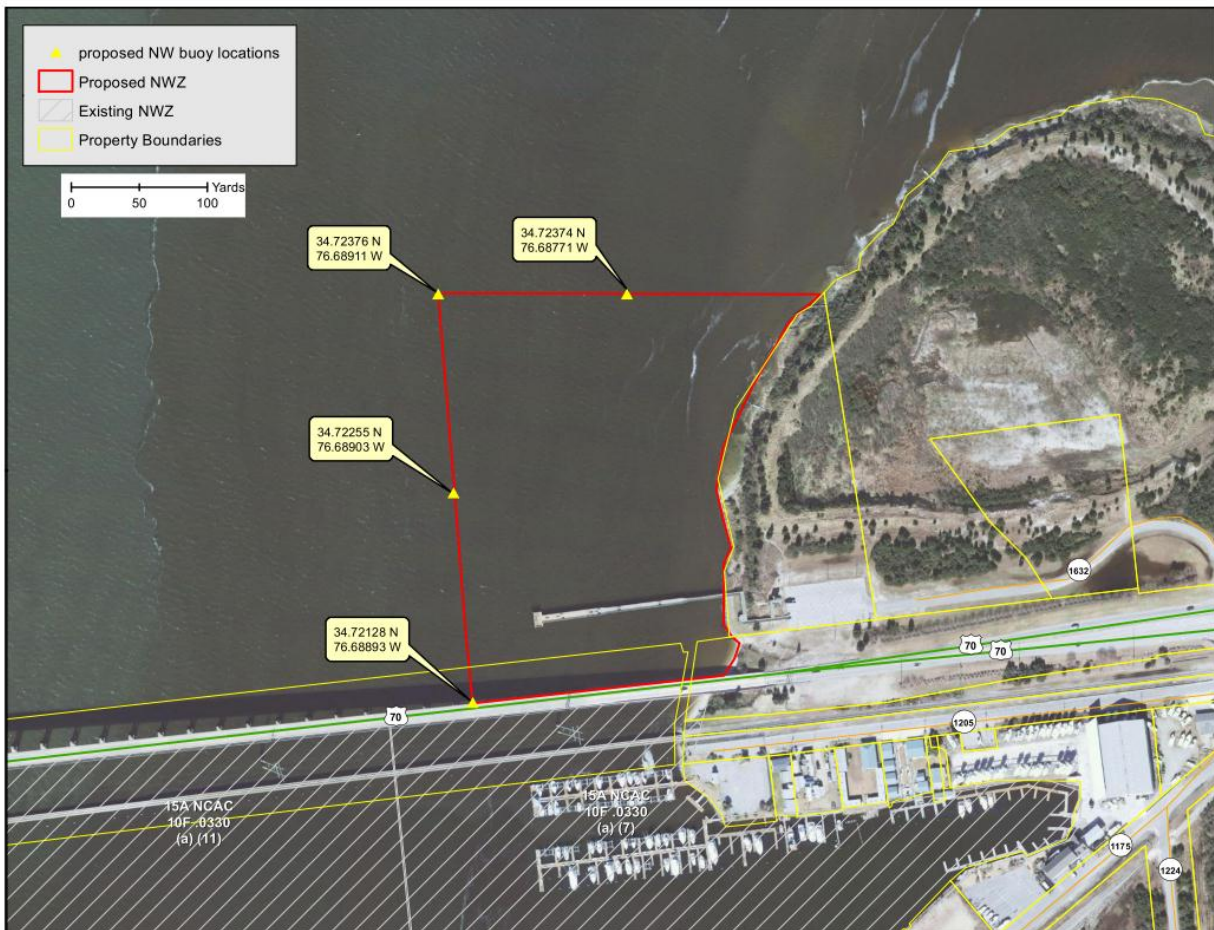
(a) Regulated Areas. This Rule applies to the following waters in Carteret County:

- (1) the waters of Money Island Slough beginning at the east end of Money Island near the Anchorage Marina Basin and ending at the west end of Money Island where Brooks Avenue deadends at the slough;
- (2) the waters of Taylor Creek located within the territorial limits of the Town of Beaufort;
- (3) the waters of Pelletier Creek beginning at the entrance to Pelletier Creek at the Intracoastal Waterway and ending at U.S. Highway 70;
- (4) the waters of Bogue Sound in Morehead City between Sugar Loaf Island and the seawall on the south side of Evans, Shepard and Shackelford Streets and bounded on the east by the State Ports Authority and on the west by the eastern right-of-way margin of South 13th Street extended;
- (5) the waters of Gallant's Channel from the US 70 crossing over the Grayden Paul bridge to Taylor's Creek;
- (6) the waters of Cedar Island Bay and Harbor from U.S. 70 to Cedar Island Bay Channel Light 8;
- (7) the waters of the small cove on the west side of Radio Island immediately south of the B & M Railroad and US 70 Bridges across the Intracoastal Waterway in which Radio Island Marina and Morehead Sports Marina are located as delineated by appropriate markers;
- (8) the waters of the Newport River beginning at the north side of the Beaufort Drawbridge and ending at marker #6;
- (9) the waters of Spooners Creek within the territorial limits of the Town of Morehead City as delineated by appropriate markers;
- (10) the waters of Taylor's Creek from the eastern end of the current no wake zone eastward to Channel Marker #1A;
- (11) the waters of the Newport River at Bogue Sound including all waters surrounding the Port of Morehead City to Brandt Island as delineated by appropriate markers; ~~and~~
- (12) the waters of Morgans Creek as delineated by appropriate markers;
- (13) the waters of Cannonsgate Marina and the Cannonsgate Marina Channel, beginning at its intersection with Bogue Sound at 34.70163 N, 76.98157 W as delineated by appropriate ~~markers.~~  
markers; and
- (14) the waters of the Newport River at the Newport River Beach Access Boat Ramp, north of the Highway 70 bridge, beginning from the shore at a point at 34.72141 N, 76.68707 W, west to a point at 34.72128 N, 76.68893 W, north to a point at 34.72376 N, 76.68911 N, then east to the shore at 34.72371 N, 76.68631 W.

(b) Speed Limit. It is unlawful to operate a motorboat or vessel at a speed greater than no-wake speed while on the waters of the regulated areas designated in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Carteret County, with respect to the regulated areas designated in Subparagraphs (1), (3), (5), (6), (7), (8), (10), (12) and (13) of Paragraph (a) of this Rule, and the Board of Commissioners of the Town of Beaufort, with respect to the regulated area designated in Subparagraph (2) of Paragraph (a) of this Rule, and the Board of Commissioners of Morehead City, with respect to Subparagraph ~~(4)~~ and (4), ~~(9)~~ (9), and (14) of Paragraph (a) of this Rule, and the North Carolina ~~State~~ State Ports Authority, with respect to the regulated area designed in Subparagraph (11) of Paragraph (a) of this Rule are designated as suitable agencies for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

### SITE MAP





ROY COOPER  
ATTORNEY GENERAL

State of North Carolina  
Department of Justice  
9001 Mail Service Center  
RALEIGH, NORTH CAROLINA  
27699-9001

REPLY TO:  
C. NORMAN YOUNG, JR.  
SERVICE TO STATE AGENCIES  
PHONE: 919-716-6800  
FAX: 919-716-6755  
E-MAIL: NYOUNG@NCDOJ.GOV

January 7, 2012

Fiscal Note Review of  
Proposed Wildlife Resources Commission (WRC) "No-Wake Zone" Rule  
(15A NCAC 10F .0354)

*Contact:* Norman Young  
Counsel and Rulemaking Coordinator  
North Carolina Wildlife Resources Commission

*Impact:* State government: No  
Local government: Yes  
Substantial impact: No

*Authority:* G.S. 75A-3; 75A-15

This rule would repeal a no-wake zone currently in existence at the Seine Beach area of the Tar River in Pitt County as indicated by the proposed changes. (See Appendix).

For reasons which will be outlined below, WRC believes that this rule change does not meet the criteria requiring a fiscal note pursuant to G.S. § 150B-21.4, but is submitting a fiscal note for review as requested by OSBM on January 6, 2012.

**STATE IMPACT ANALYSIS:** The agency has concluded that there will be no cost to the State for the following reasons:

- \* Pitt County has requested the repeal of this no-wake zone and will remove any existing markers.
- \* WRC has surveyed the site and concurs that there are no longer any safety hazards that require the existing no-wake zone.
- \* This rule is intended to accomplish the agency's mandate to provide for the safety of boaters and other members of the public, and is part of a regulatory program enforced by WRC's Division of Enforcement. The proposed change will not affect

staffing or costs to WRC for enforcement as this is already an active patrol area and the repeal will not result in either an increased or decreased Enforcement presence.

**LOCAL IMPACT ANALYSIS:** It is the understanding of WRC that Pitt County will be able to remove the markers at no financial cost using existing staff. So, there would be some opportunity cost for the staff time, however, it is likely to be small.

**SUBSTANTIAL ECONOMIC IMPACT ANALYSIS:** WRC has concluded that there will be no substantial economic impact to the public as a result of the adoption of this proposal since, based on its site survey, WRC does not believe that there will be any appreciable economic impact to the public. The regulated community may receive a slight non-economic benefit by the removal of the regulation, but this repeal will not result in any measurable economic loss or gain to the public. Accordingly WRC has determined that the economic impact to the public is minimal to none.

## APPENDIX

**15A NCAC 10F .0354 PITT COUNTY is proposed for amendment as follows:**

**15A NCAC 10F .0354 PITT COUNTY**

(a) Regulated Areas. This Rule applies to the waters described in this Paragraph:

- (1) The entire inlet of Hardee Creek from the Tar River in Pitt County; and
- ~~(2) The Seine Beach area of the Tar River beginning at Chicod Creek and extending to the east side of the Grimesland Bridge as marked by appropriate markers; and~~
- ~~(3)~~ (2) that portion of Tranters Creek beginning at a line, shore to shore, from a point at 35.56925 N, 77.09138 W and ending at a line, shore to shore, to a point at 35.56703 N, 77.08981 W as delineated by appropriate markers.

(b) Speed Limit. No person shall operate a motorboat or vessel at greater than no-wake speed within the regulated areas described in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Pitt County is designated a suitable agency for placement and maintenance of markers implementing this Rule.