

## Exhibit X-2



### Fiscal Note for Proposed Inland Fishing Rule Amendment

**Rule Amendment:** 15A NCAC 10C .0208 Spawning Areas

**Agency Contact:** Ashley Pekrul  
Regulatory Analyst  
NC Wildlife Resources Commission  
1751 Varsity Drive, Raleigh, NC  
919-707-0014  
[ashley.pekrul@ncwildlife.org](mailto:ashley.pekrul@ncwildlife.org)

**Impact:**

State Government:	Yes
Local Government:	No
Private Impact:	Yes
Substantial Economic Impact:	No

**Authority:** G.S. 113-134; 113-292

### BACKGROUND

The wildlife resources of the State belong to the people of the State as a whole, including the enjoyment of these resources (G.S. 113-131(a)). WRC is tasked with the conservation of wildlife resources of the State (G.S. 143-239). This responsibility includes managing as equitably as possible the various competing interests regarding these resources, including the use and take of such resources (G.S. 113-131.1(a)). The statutes governing wildlife resources are found in Chapter 113, Subchapter IV of the General Statutes, and WRC has been granted rulemaking authority to implement the provisions of these statutes (G.S. 113-134).

A summary of the proposed rule amendments is shown below, with the full text included in Appendix A.

### 15A NCAC 10C .0208

This proposal would remove the fishing prohibitions on the Linville River and bypass channel around Lock and Dam No. 1 on the Cape Fear River and prohibit fishing from March 1 to May 31 in three restored floodplain sloughs connected to the French Broad River and Mud Creek in Henderson County.

Fishing on the Linville River from the NC 126 bridge downstream to the mouth of the Linville River from February 15 to April 15 was originally prohibited to protect Walleye migrating upriver from Lake James to spawn. Hatchery broodfish were collected from this area historically. However, the Walleye population in Lake James is no longer self-sustaining and is supported through hatchery stockings. The prohibition is no longer necessary given the lack of spawning activity in this area.

On the Cape Fear River, a bypass channel was designed to pass anadromous Striped Bass and American Shad around Lock and Dam No. 1 but was never constructed. A rock-arch weir was instead constructed to allow fish to pass over the lock and dam. The prohibition is being removed given the bypass channel does not exist.

As part of the Mud Creek Habitat Restoration Project, three backwater sloughs were restored to provide Muskellunge spawning habitat. To prevent potential targeting of Muskellunge by anglers in the sloughs during the spawn, the proposal prohibits fishing in the sloughs from March through May.

### Fiscal Impact

#### *State Impact*

##### Cost

These proposed rule amendments will not change current on-the-ground management. A conservation biologist or technician will put up signage to mark the sloughs as part of their regular duties. It is expected to only take one staff member to put up the signs. Changing the signage will not require more than one day, at an estimated cost to the agency of approximately \$248 ( $\$31/\text{hr} \times 8 \text{ hrs} = \$248$ ).

It is estimated that no more than 25 new signs will be required to mark the sloughs. New signage will cost the agency, at most, \$22.50 ( $\$0.90/\text{sign} \times 25 \text{ signs}$ ).

The one-time total cost to the agency is estimated to be around \$270.50 ( $\$248 + \$22.50$ ).

#### *Local Impact*

This rule amendment has no anticipated local government impact.

#### *Private Impact*

##### Benefit

The habitat sloughs have been created by partners with the NCWRC. They are newly created aquatic habitats. They are very small in size compared to the fishing areas provided by the French Broad River. Closure to fishing in these areas will have minimal impact to anglers due to their small size. They are newly created areas therefore they are not popular or rich fishing spots because most if not all anglers know very little about them. Removing the prohibitions on the

Linville River and Cape Fear River could allow anglers more fishing opportunity. Because the agency does not know how many anglers fish these areas or how many will take advantage of the increased opportunities, the benefits of the proposed changes cannot be monetized.

The Mud Creek prohibition will allow muskellunge to use the slough habitats to spawn and perform other activities without being captured or harassed by anglers. This prohibition could lead to natural reproduction on the French Broad River which has not been documented to date. This will hopefully restore muskellunge to the French Broad River.

#### Cost

The proposed prohibition on fishing in three restored floodplain sloughs connected to the French Broad River and Mud Creek in Henderson County from March 1 to May 31 will reduce angler opportunity in this area, as those who previously fished in this area at that time will no longer be able to. Because there are no angler data for this area, the costs associated with this change cannot be monetized.

## APPENDIX A

### 15A NCAC 10C .0208 SPAWNING AREAS

The following waters are designated as spawning areas in which fishing is prohibited or restricted as indicated:

- (1) ~~No person shall fish by any method from February 15 to April 15, both inclusive, in Linville River from the NC 126 bridge downstream to the mouth of the Linville River.~~
- (2) ~~No person shall fish by any method within the bypass channel constructed by the U.S. Army Corps of Engineers around Lock and Dam No. 1 on the Cape Fear River at any time.~~

(a) No person shall fish by any method from March 1 to May 31 in the following restored floodplain sloughs connected to the French Broad River and Mud Creek in Henderson County:

- (1) Slough 1 at 35.403687, -82.531970 connected to the French Broad River, located 0.25 miles upstream of Butler Bridge Rd (SR 1345).
- (2) Slough 2 at 35.398380, -82.528750 connected to the French Broad River, located 1.0 miles upstream of Butler Bridge Rd.
- (3) Slough 3 at 35.396449, -82.525462 connected to Mud Creek, located 0.1 miles upstream from confluence with the French Broad River.

(b) Each slough shall be marked with signs on both banks.

*History Note: Authority G.S. 113-134; 113-292;*

*Eff. February 1, 1976;*

*Amended Eff. September 1, 2022; May 1, 2009; August 1, 2004; July 1, 1993; July 1, 1989; July 1, 1985; July 1, 1984.*