

# Summary of Proposed Rule Changes

N.J.A.C. 7:12

Shellfish Growing Water Classification

Bureau of Marine Water Monitoring – Leeds Point, NJ

Water Monitoring and Standards

Water Resource Management

New Jersey Department of Environmental Protection



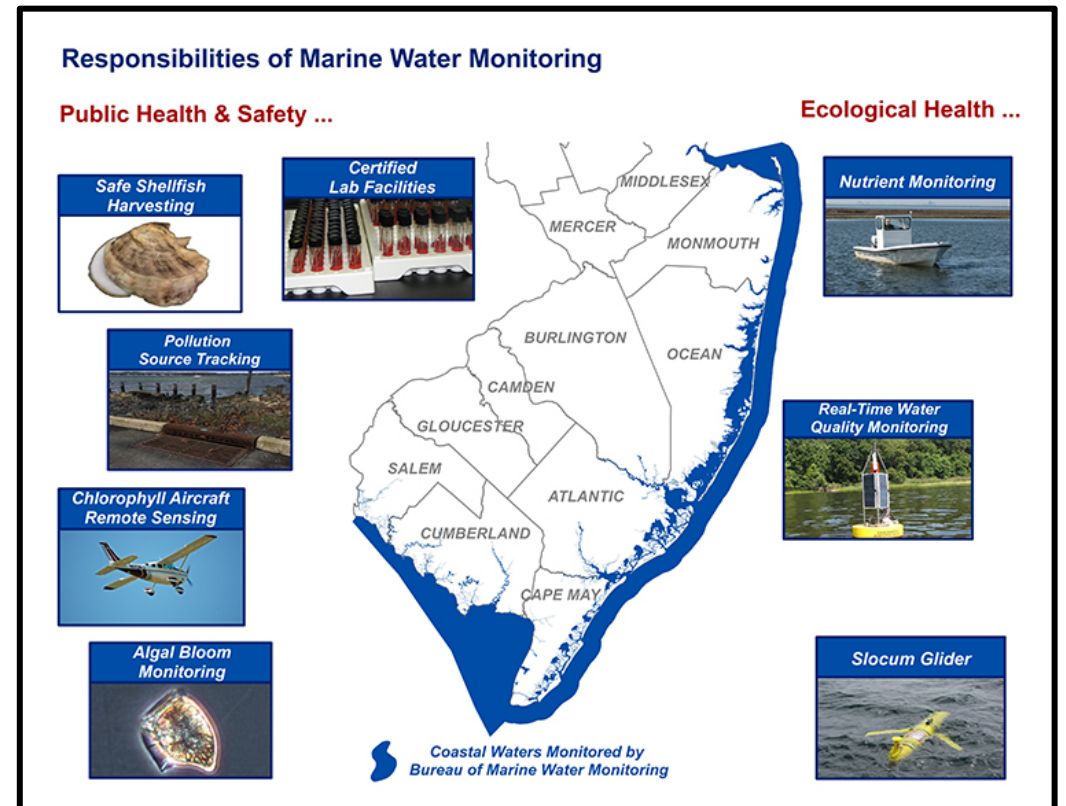
NEW JERSEY  
DEPARTMENT OF  
ENVIRONMENTAL  
PROTECTION

# Meeting Ground Rules

- Access to the stakeholder meeting is available on your computer or mobile device through either the Microsoft Teams application or the device's web browser.
- The web browsers that best support Microsoft Teams meetings are Internet Explorer 11, Microsoft Edge, Chrome, and Firefox.
- The stakeholder meeting will begin promptly at the designated starting time of 6:00 pm.
- The stakeholder meeting will be moderated by a NJDEP representative.
- As a courtesy to other people speaking, participants will be muted until they are called upon by the NJDEP stakeholder moderator to speak. At that time, participants will be expected to unmute their microphones to speak.
- If an attendee to the public stakeholder meeting would like to speak, they should notify the NJDEP moderator of their interest by either raising their hands digitally, writing in the chat for the Microsoft Teams virtual meeting that they would like to speak, or if participating by phone waiting for a logical break in the presentation to request to speak.
- The stakeholder meeting will be recorded for public record.
- At the beginning of the meeting, a NJDEP representative will provide a brief demonstration on how to unmute/mute your microphones, how to turn off your video feed, and how to access the stakeholder meeting's chat.

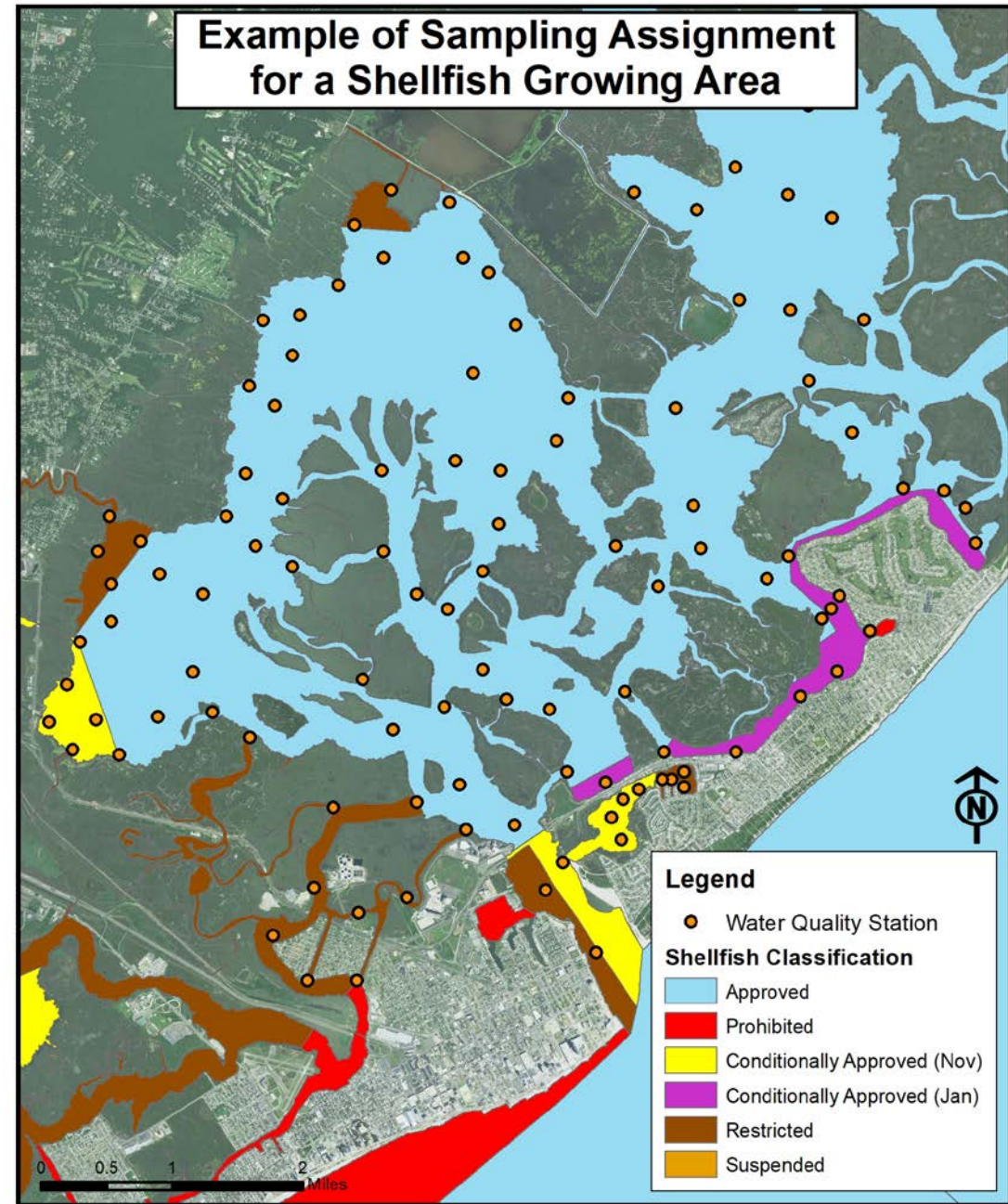
# DEP Bureau of Marine Water Monitoring

- Division of Water Monitoring and Standards
- Granted authority to implement and amend *N.J.A.C. 7:12* (Shellfish Growing Water Classification)
- Monitors coastal water quality for public and ecological health
- Maintains compliance with National Shellfish Sanitation Program
  - Sampling, testing and reporting
  - *Vibrio* Control Plan
- Conducts coastal pollution source track-down projects
- Issues permits for commercial shellfish activities and research in other than *Approved* waters
- Supports coastal bathing beach monitoring program
- Last re-adoption of *N.J.A.C. 7:12* effective September 19, 2016



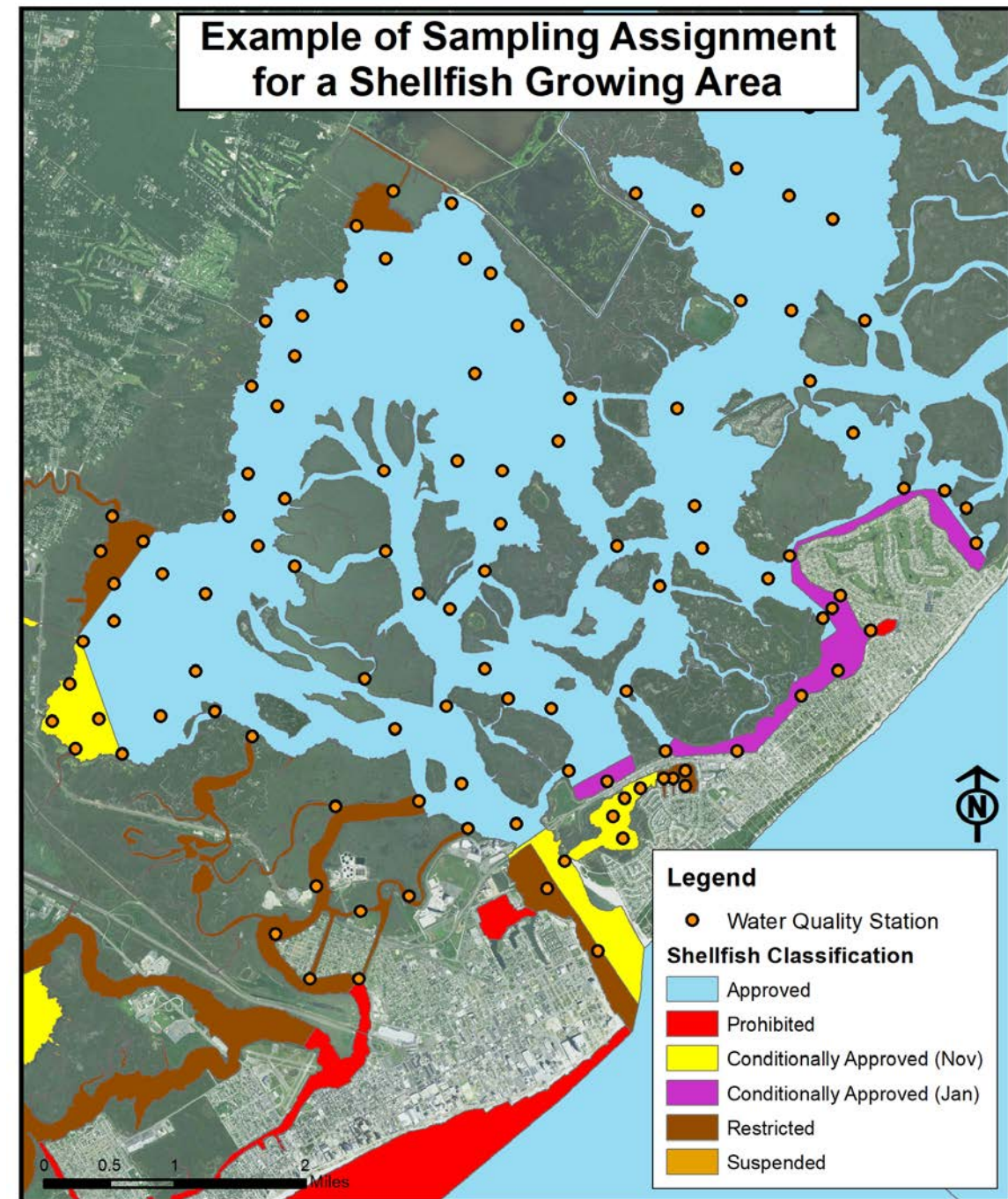
# National Shellfish Sanitation Program

- Administered by U.S. Food and Drug Administration
- Develops and updates regulatory guidelines for sanitary control of shellfish produced and sold for human consumption.
- Sets sampling methods and classification criteria that the Bureau of Marine Water Monitoring must use to classify shellfish growing waters
  - NSSP Guide for the Control for Molluscan Shellfish (2019 Revision)
- Marine Water Monitoring must adhere to sampling schedule
  - Approximately 10 times per year
  - Samples analyzed for fecal coliform
  - Two sampling strategies: Adverse Pollution Condition and Systematic Random Sampling
  - Sets of samples analyzed for central tendency and spread



# Classification Criteria – Fecal Coliform

- **Approved**
  - Can be *Approved* Year-round or *Conditionally Approved* for winter months only
  - Geometric Mean < **14 CFU/100mL**
    - Maximum of 10% of samples > **31 CFU/100mL**
    - Estimated 90th Percentile < **31 CFU/100mL**
- **Restricted**
  - Requires a permit to harvest for relay or depuration
  - Geometric Mean < **88 CFU/100mL** fecal coliform
    - Maximum of 10% of samples > **163 CFU/100mL**
    - Estimated 90th Percentile < **163 CFU/100mL**
- **Prohibited**
  - Stations exceed *Restricted* criteria
  - Administrative buffers
- **Suspended**
  - Temporary closure of harvest. May be reopened or permanently downgraded.



# Planned Upgrades – total 41,930.7 acres

- Atlantic Ocean (total 29,835.2 acres)
- Sandy Hook 3,213.5 acres
- Sandy Hook to Monmouth Beach 18,480 acres
- Monmouth Beach to Long Branch 4,116 acres
- Asbury Park to Bradley Beach 599 acres
- Spring Lake to Manasquan 1,032 acres
- Point Pleasant Beach to Mantoloking 254 acres
- Atlantic City 396 acres
- Ocean City 250.2 acres
- Sea Isle City 25.2 acres
- Stone Harbor 64 acres
- The Wildwoods 781 acres
- Cape May City 624.3 acres
  
- Shrewsbury River 583.6 acres
- Tuckerton Creek 76.9 acres
- Jarvis Sound 1,167.2 acres
- Cape May Inlet 152.4 acres
- Delaware Bay Cape Shore 547.2 acres

## ADDITIONAL UPGRADES SINCE STAKEHOLDER SESSION IN MARCH 2019 are:

- 9,033.9 acres in the Upper Delaware River that was a result of a dye study performed with the help of the FDA.
  
- 534.3 acres in Cohansey Cove

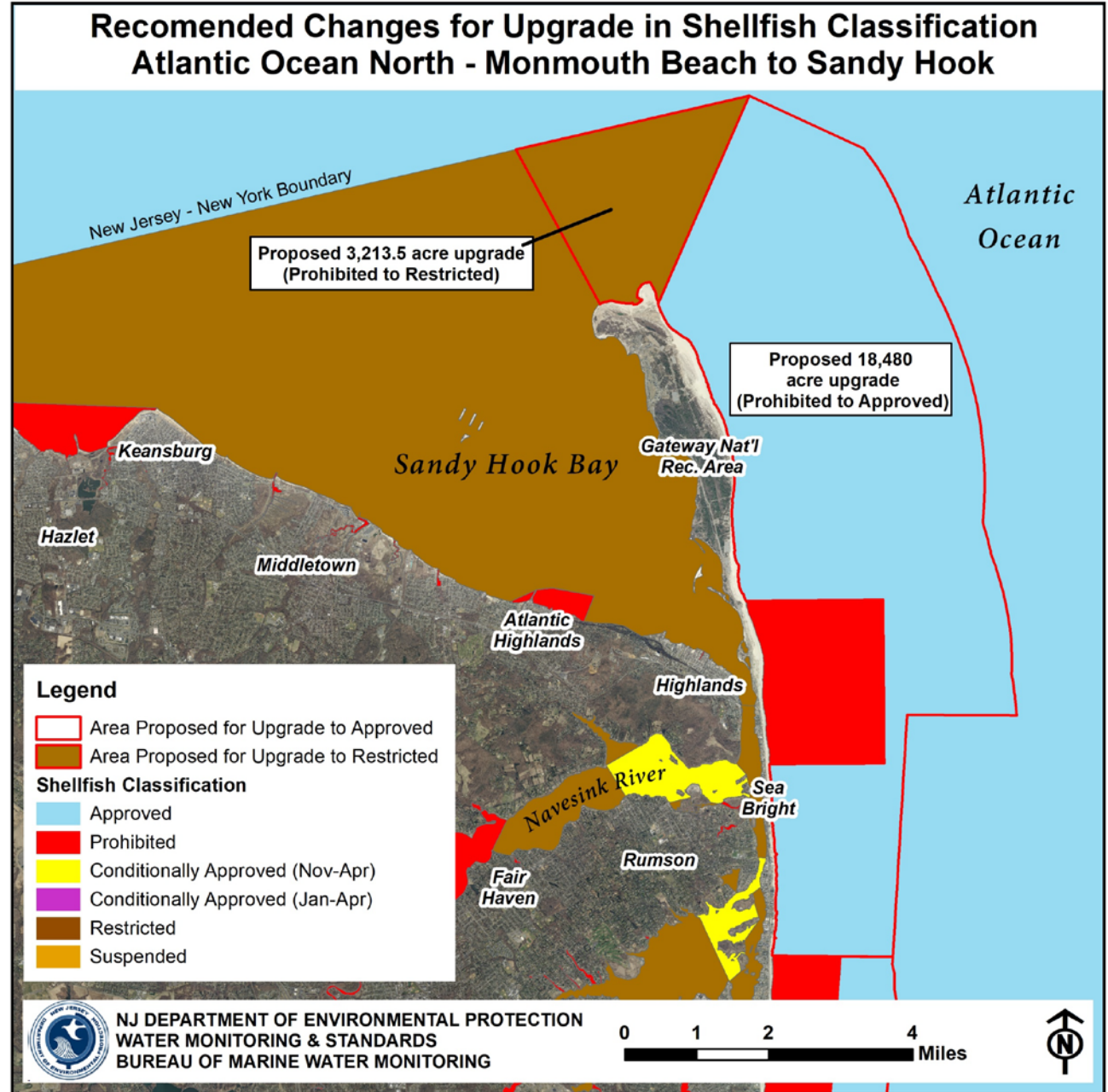
# Recommended Upgrade

Atlantic Ocean North

*Prohibited to Approved* – 18,480 acres

*Prohibited to Restricted* – 3,213.5 acres

*\* Already presented to stakeholders in March 2019*



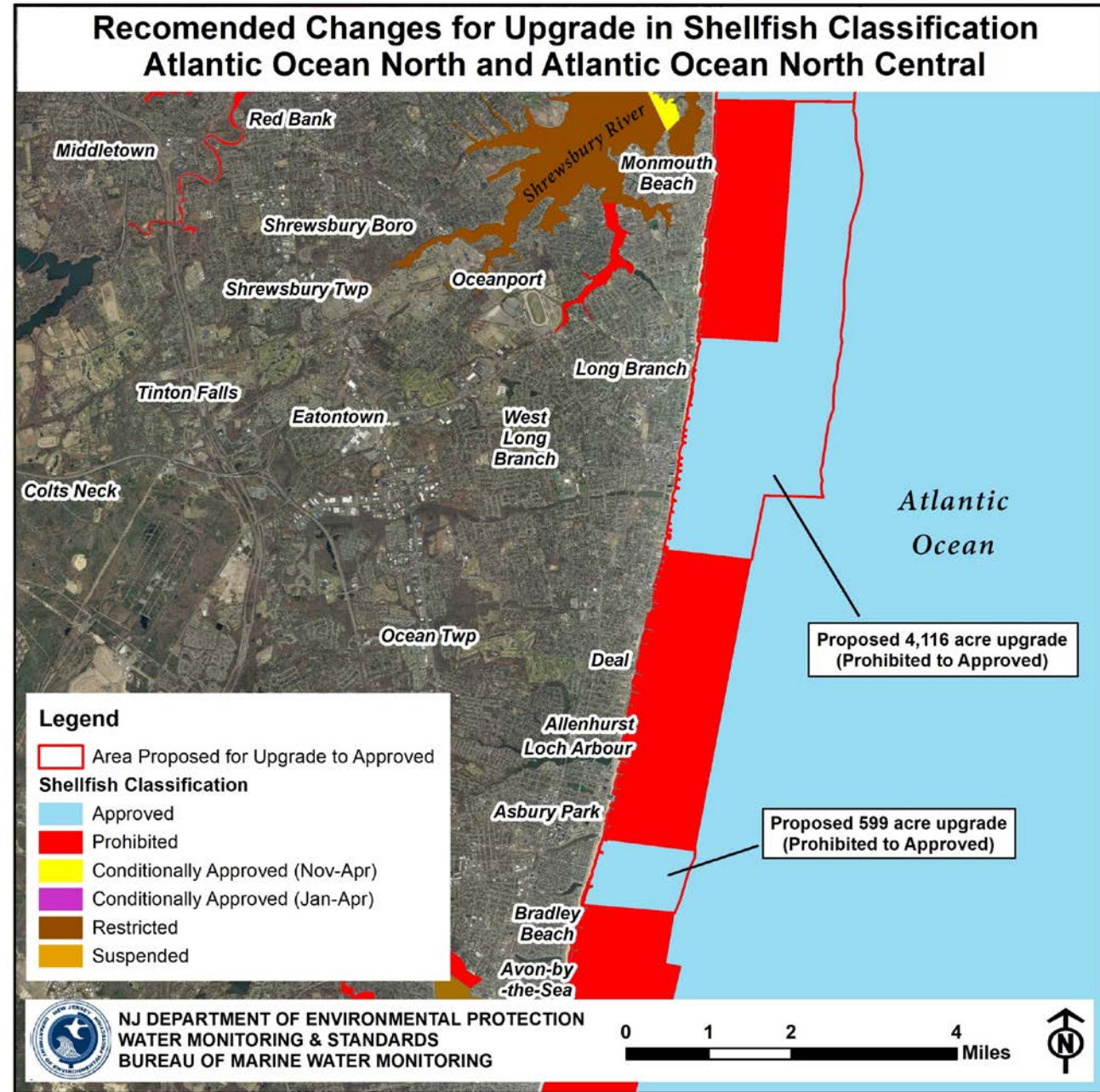
# Recommended Upgrade

Atlantic Ocean North / North Central

*Prohibited to Approved* – 4,116 acres

*Prohibited to Approved* – 599 acres

*\* Already presented to stakeholders in March 2019*





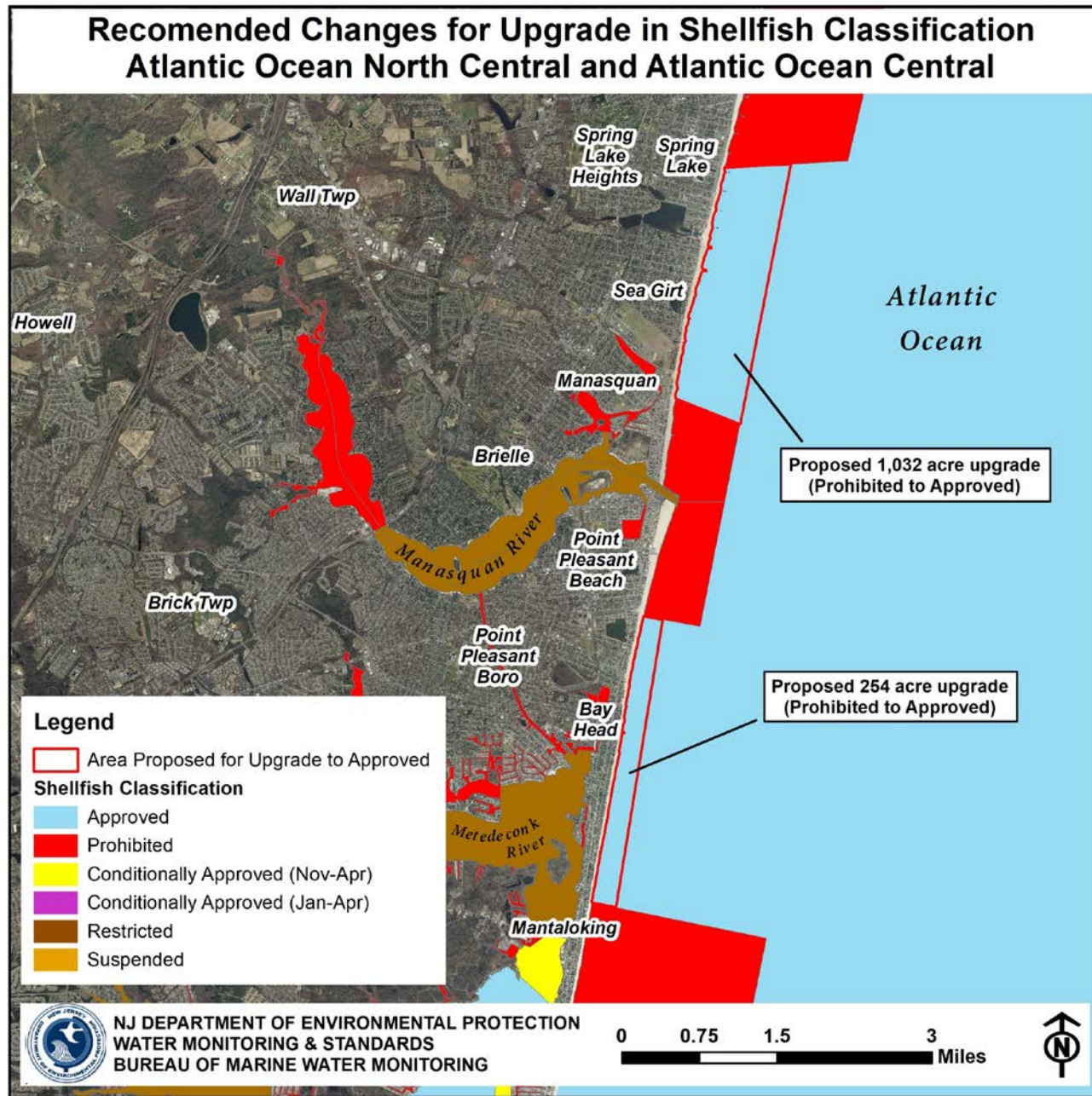
# Recommended Upgrade

Atlantic Ocean North / North Central

*Prohibited to Approved* – 1,032 acres

*Prohibited to Approved* – 254 acres

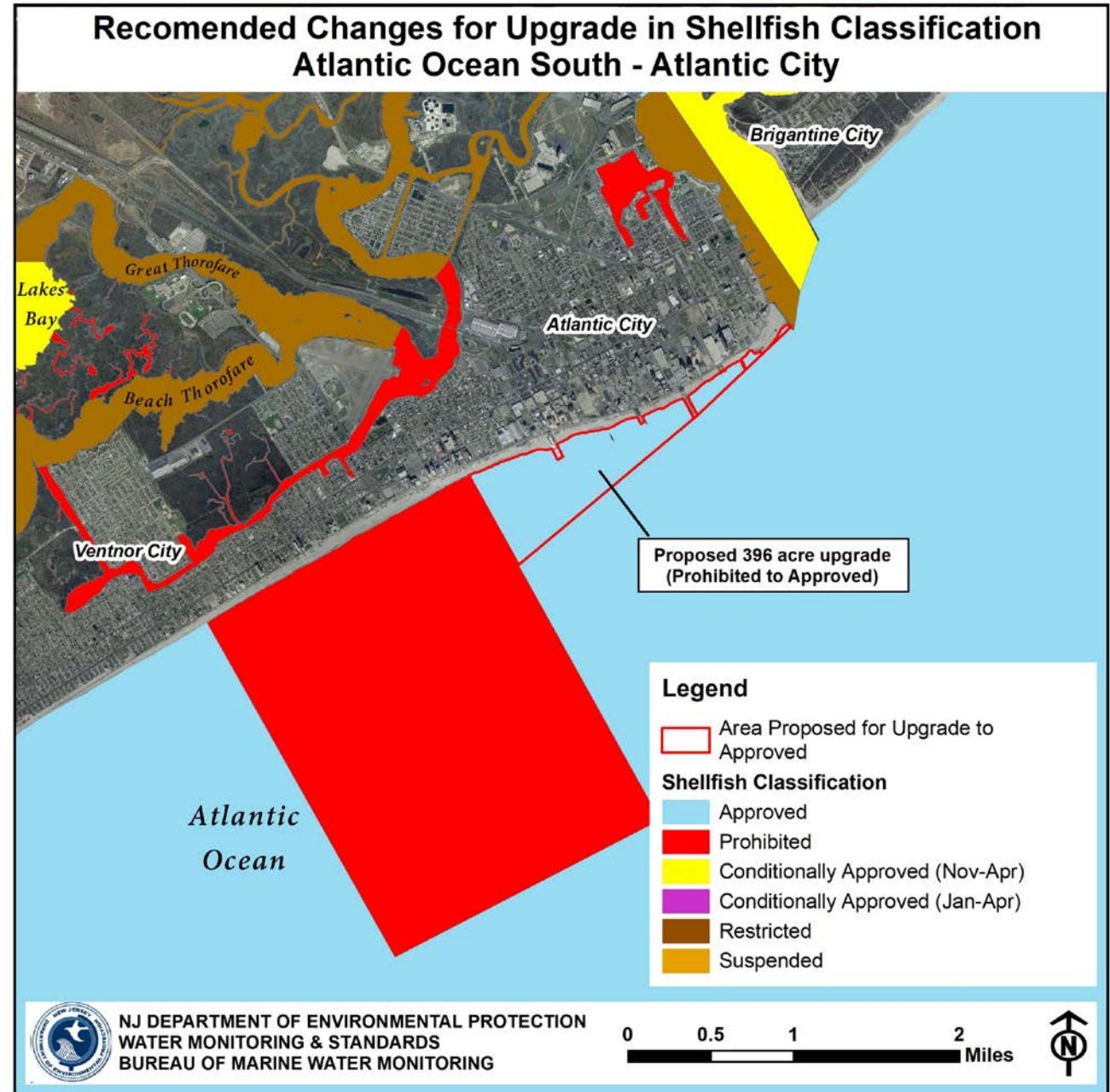
*\* Already presented to stakeholders in March 2019*



# Recommended Upgrade

Atlantic Ocean South – Atlantic City

*Prohibited to Approved* – 396 acres



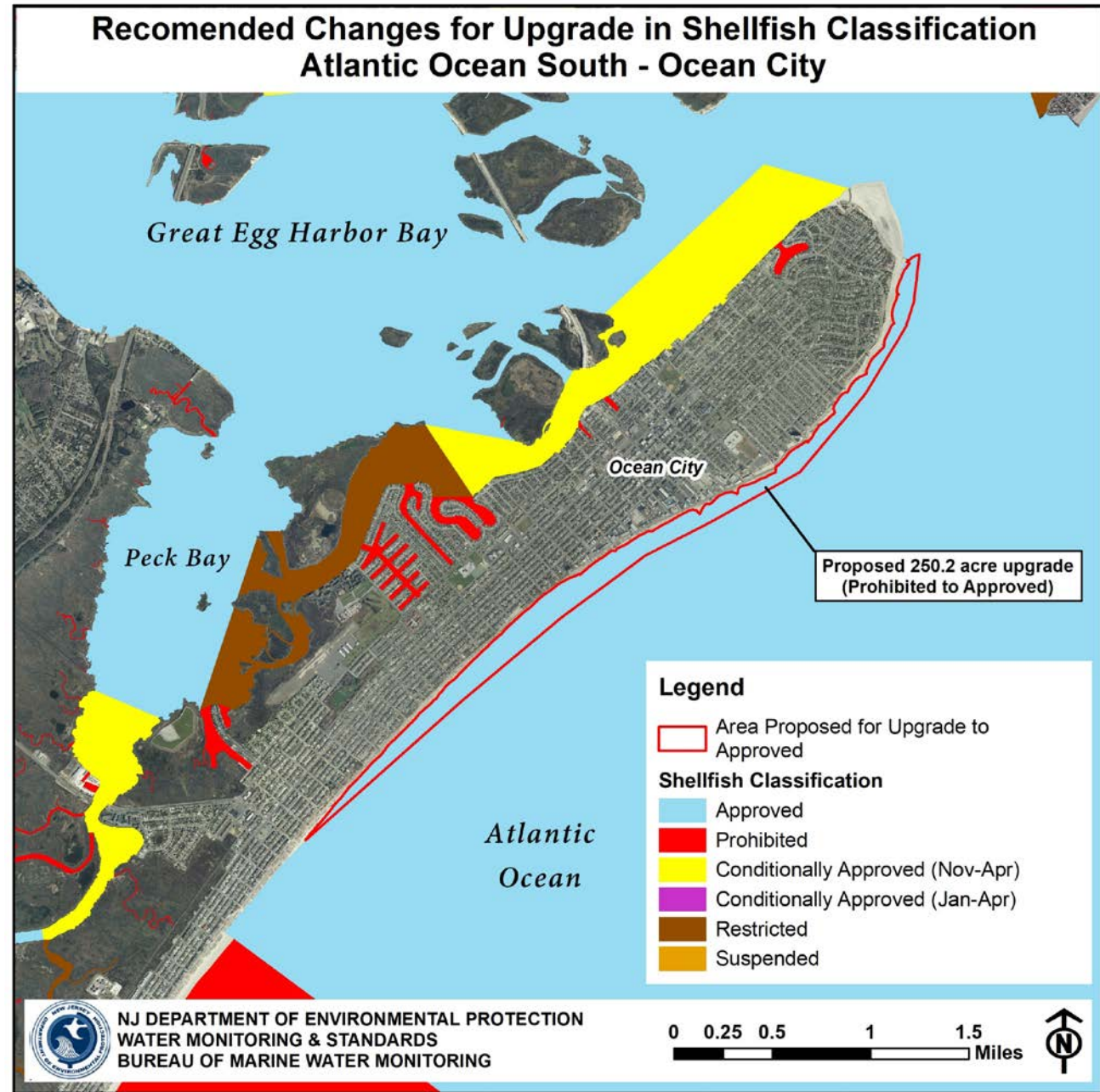
\* *Already presented to stakeholders in March 2019*

# Recommended Upgrade

Atlantic Ocean South – Ocean City

*Prohibited to Approved* – 250.2 acres

*\* Already presented to stakeholders in March 2019*

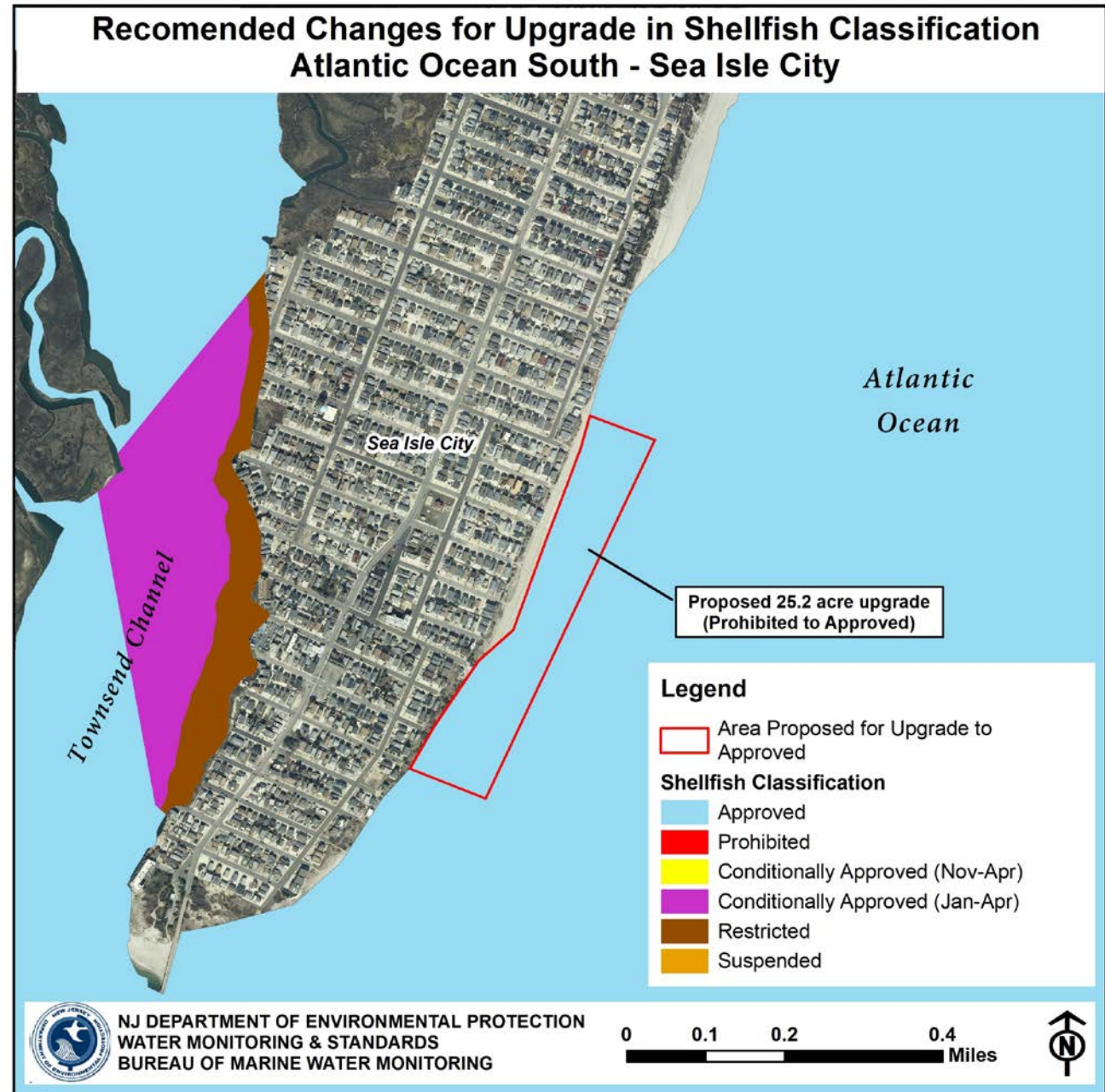


# Recommended Upgrade

Atlantic Ocean South – Sea Isle City

*Prohibited to Approved – 25.2 acres*

*\* Already presented to stakeholders in March 2019*

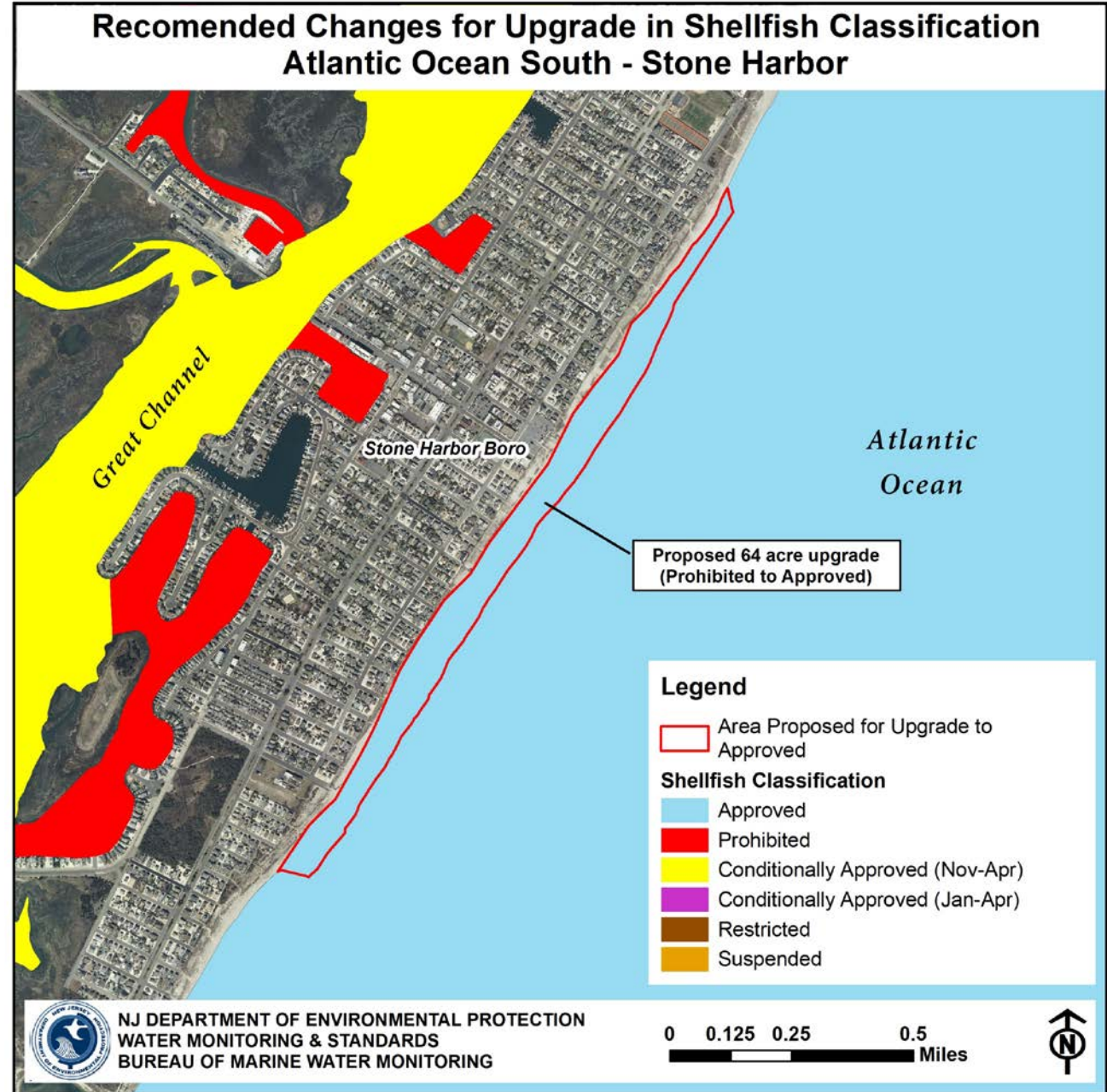


# Recommended Upgrade

Atlantic Ocean South – Stone Harbor

*Prohibited to Approved – 64 acres*

*\* Already presented to stakeholders in March 2019*

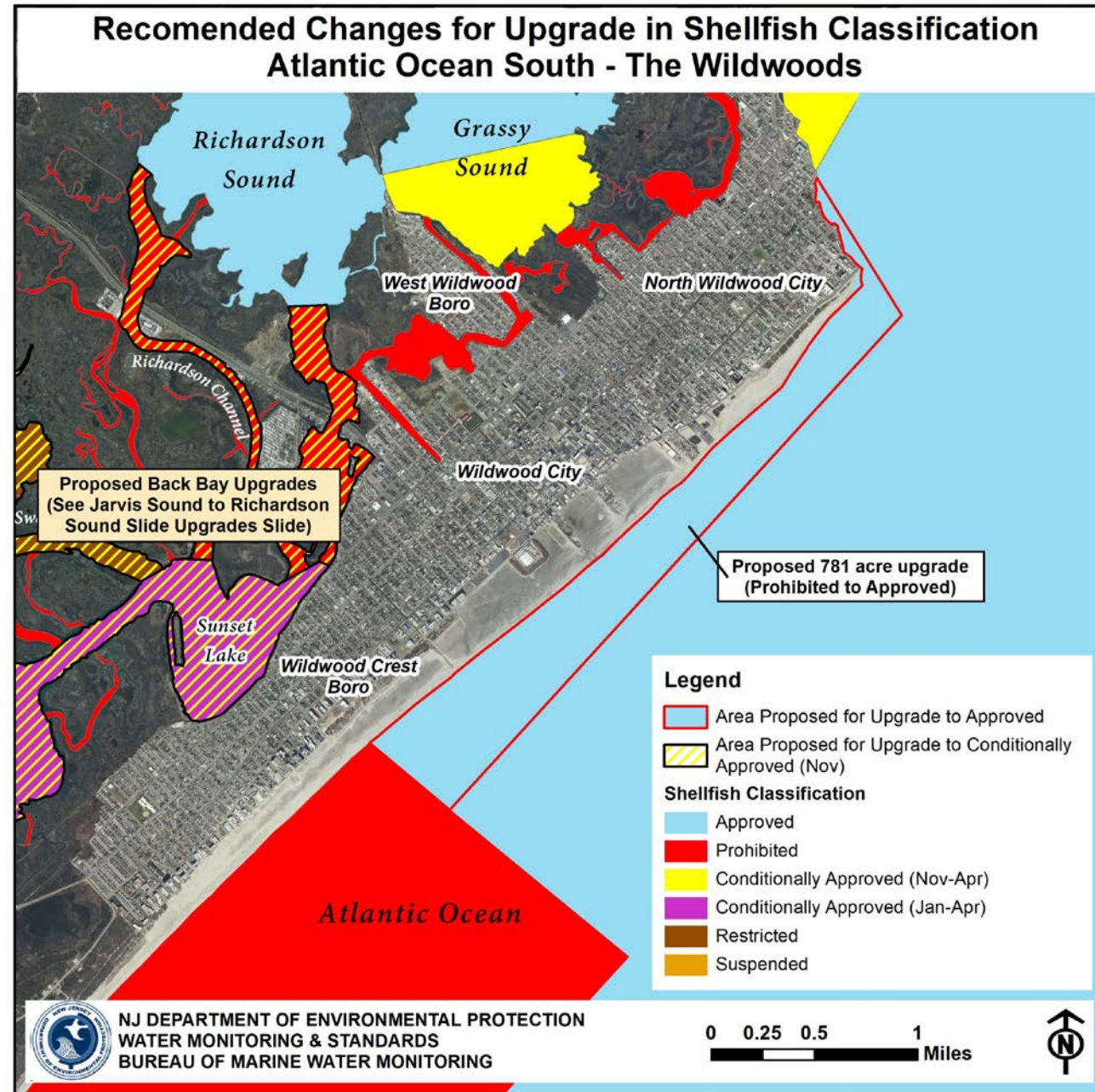


# Recommended Upgrade

Atlantic Ocean South – Wildwood

*Prohibited to Approved – 781 acres*

*\* Already presented to stakeholders in March 2019*



# Recommended Upgrade

Atlantic Ocean South – Cape May City

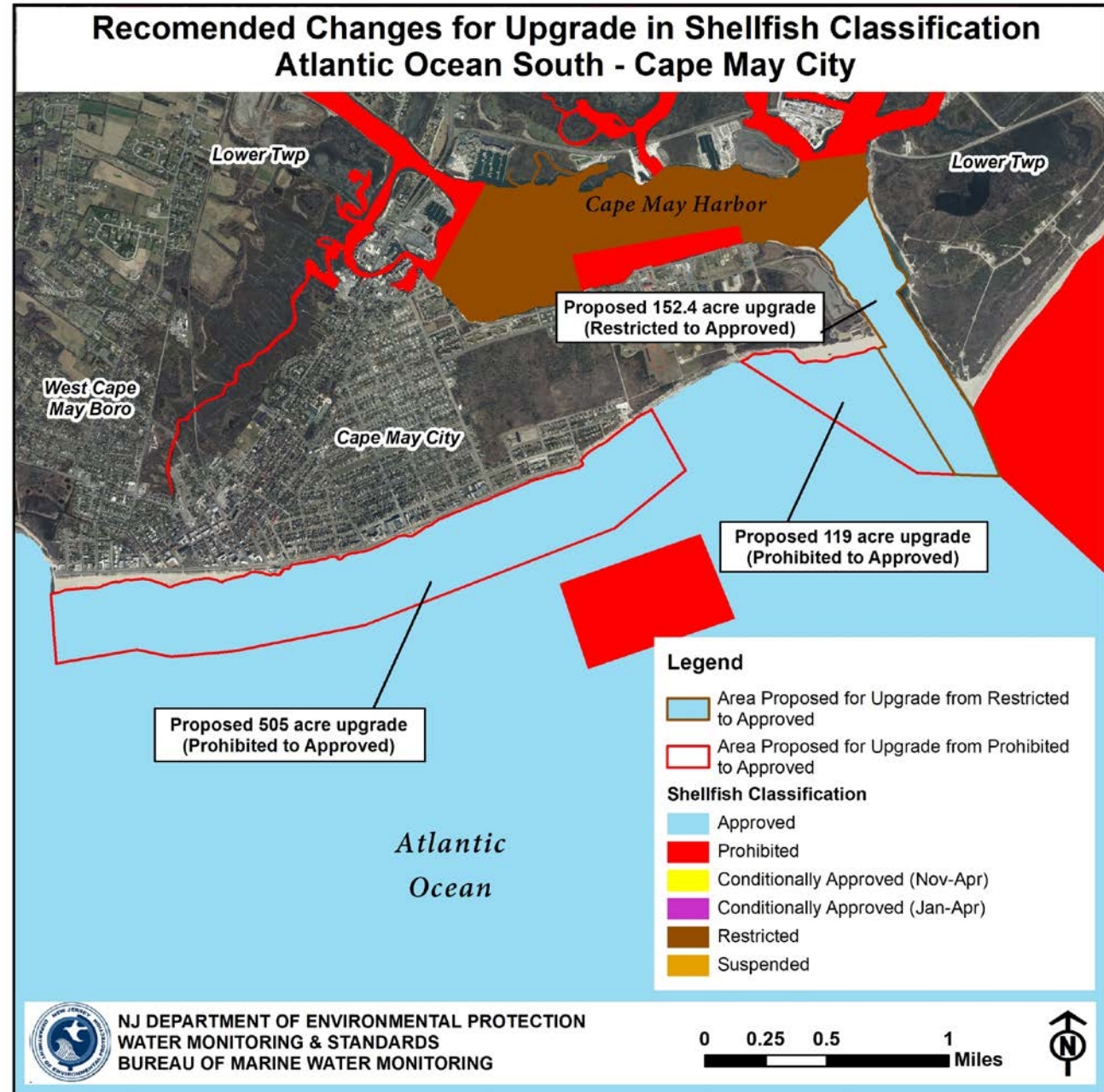
Atlantic Ocean – Cape May City

*Prohibited to Approved* – 624.3 acres

Cape May Inlet

*Restricted to Approved* – 152.4 acres

\* *Already presented to stakeholders in March 2019*

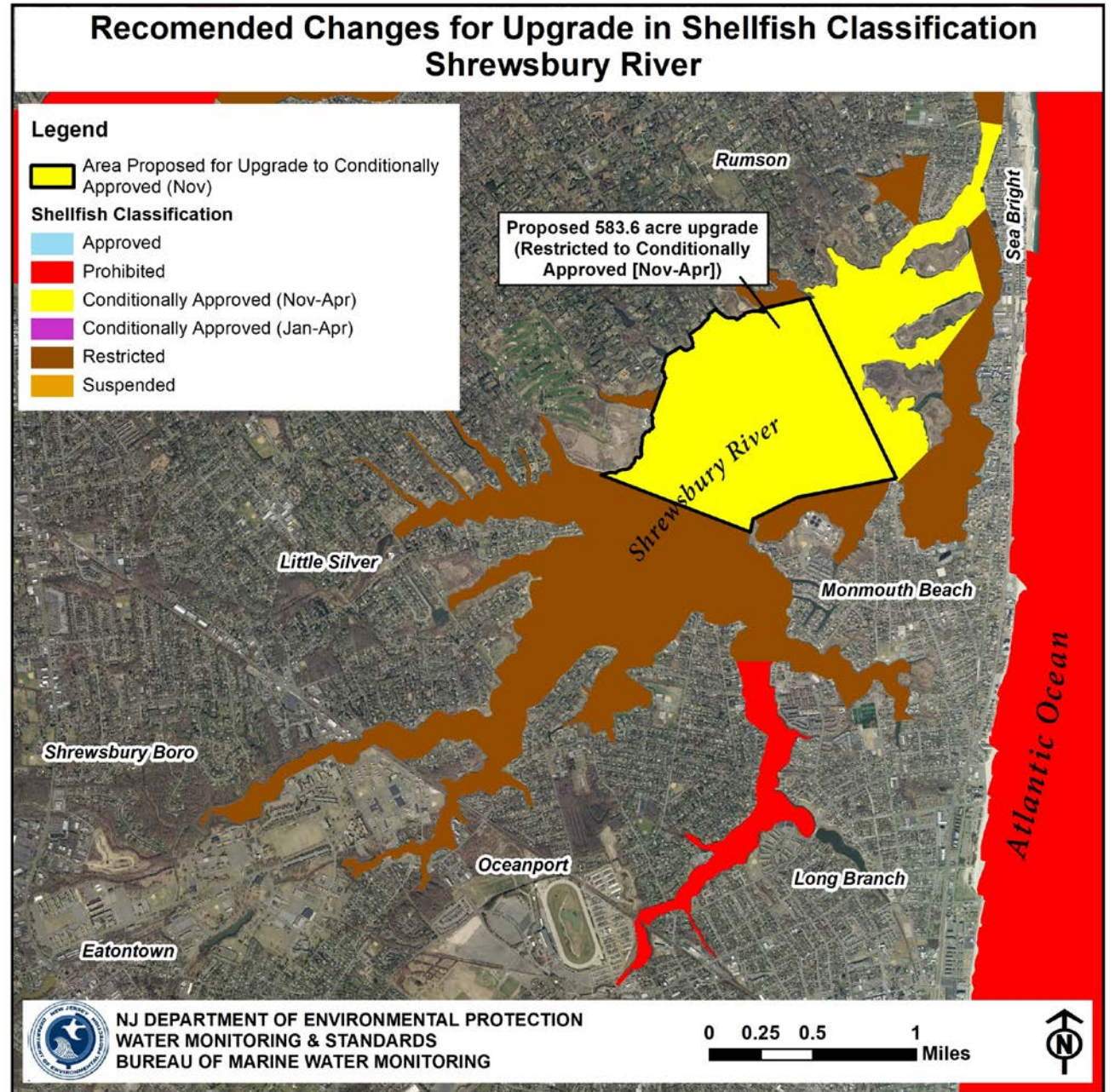


# Recommended Upgrade

Shrewsbury River

*Restricted to Conditionally Approved  
(Nov-Apr) – 583.6 acres*

*\* Already presented to  
stakeholders in March 2019*





# Recommended Upgrade

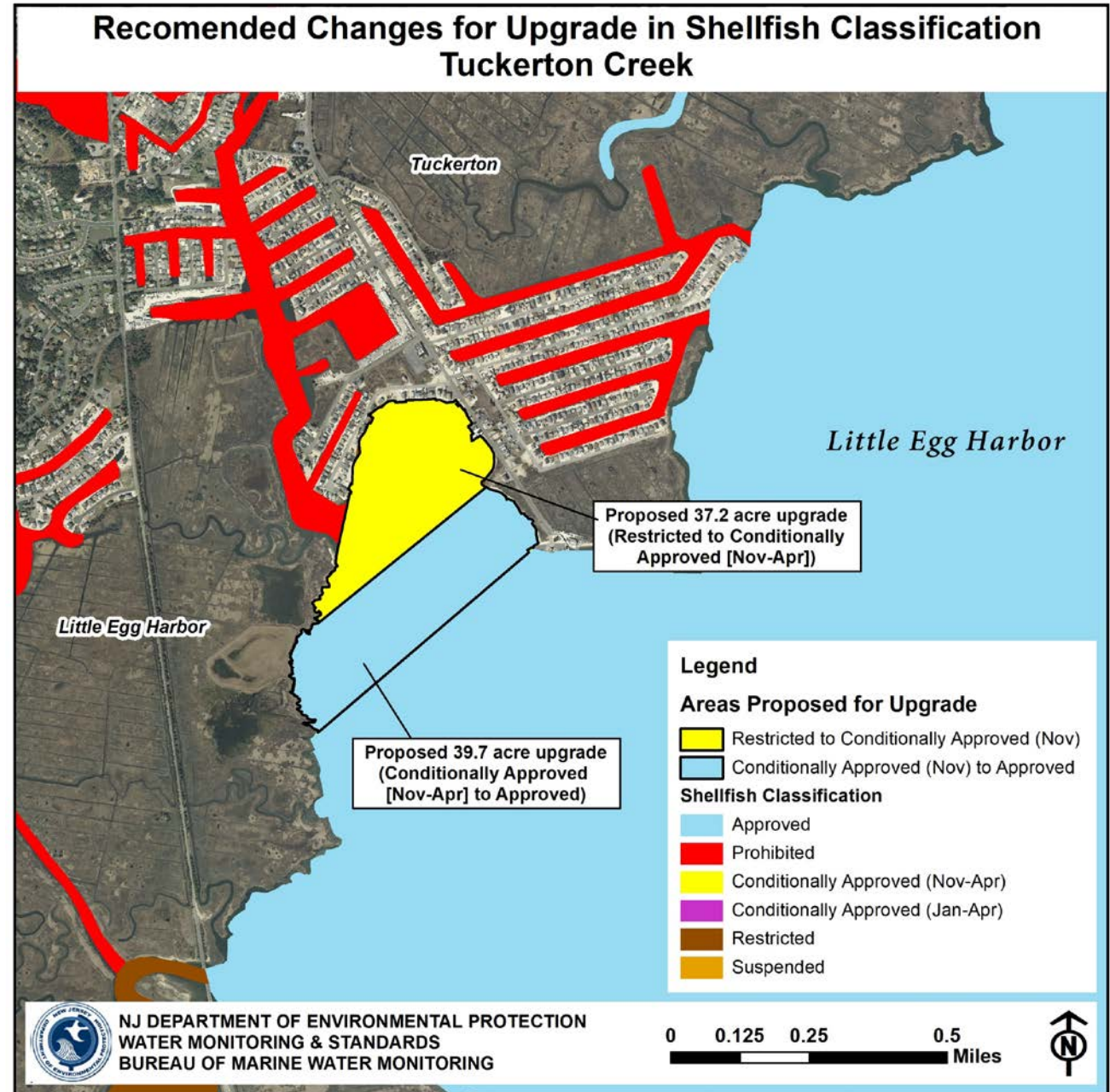
Tuckerton Creek

76.9 acres total

*Restricted to Conditionally Approved (Nov-Apr) – 37.2 acres*

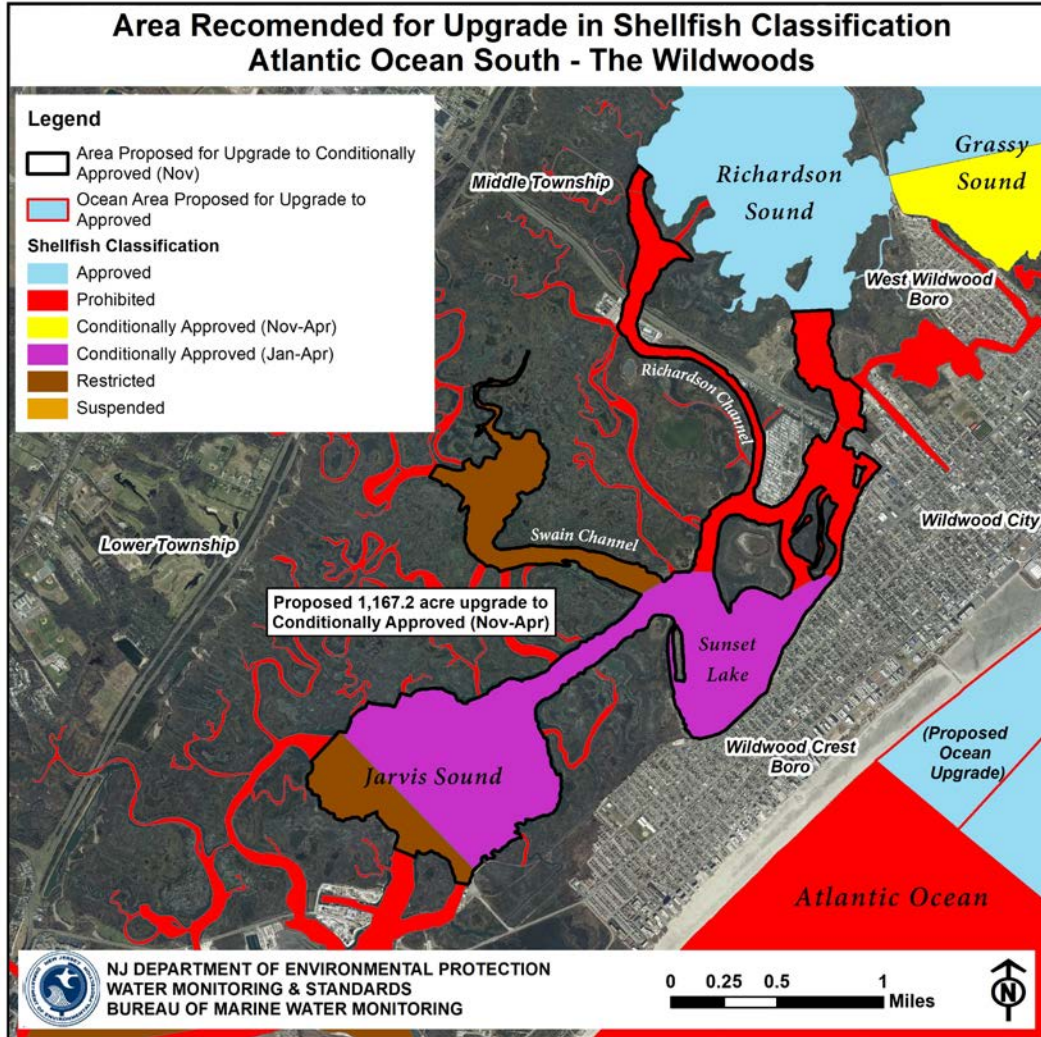
*Conditionally Approved (Nov-Apr) to Approved – 39.7 acres*

*\* Already presented to stakeholders in March 2019*



# Recommended Upgrade

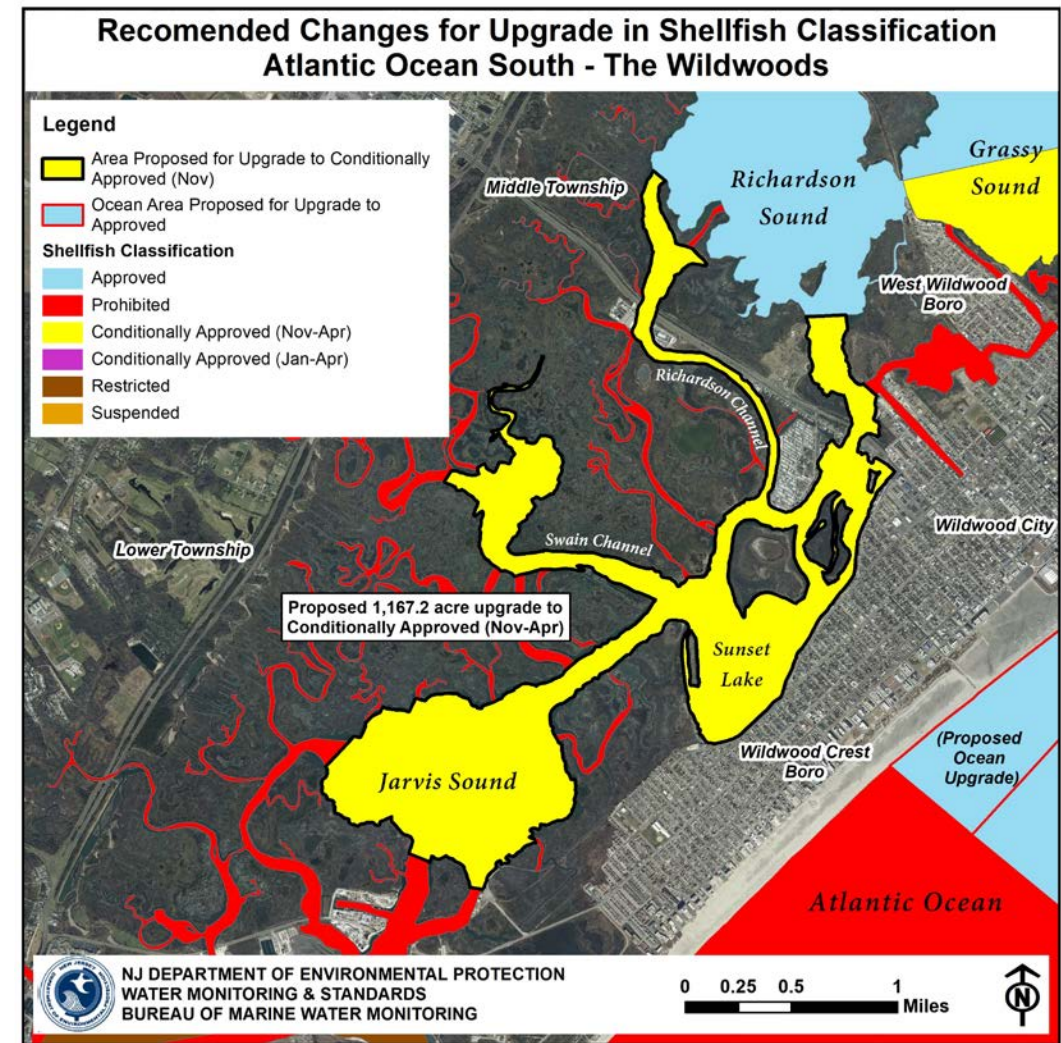
Jarvis Sound to Richardson Sound



Current  
Classification



Proposed  
Classification



- 1,167.2 acres total
- Prohibited to Conditionally Approved (Nov-Apr) – 276.6 acres
- Restricted to Conditionally Approved (Nov-Apr) – 266.8 acres
- Conditionally Approved (Jan-Apr) to Conditionally Approved (Nov-Apr) – 623.8 acres

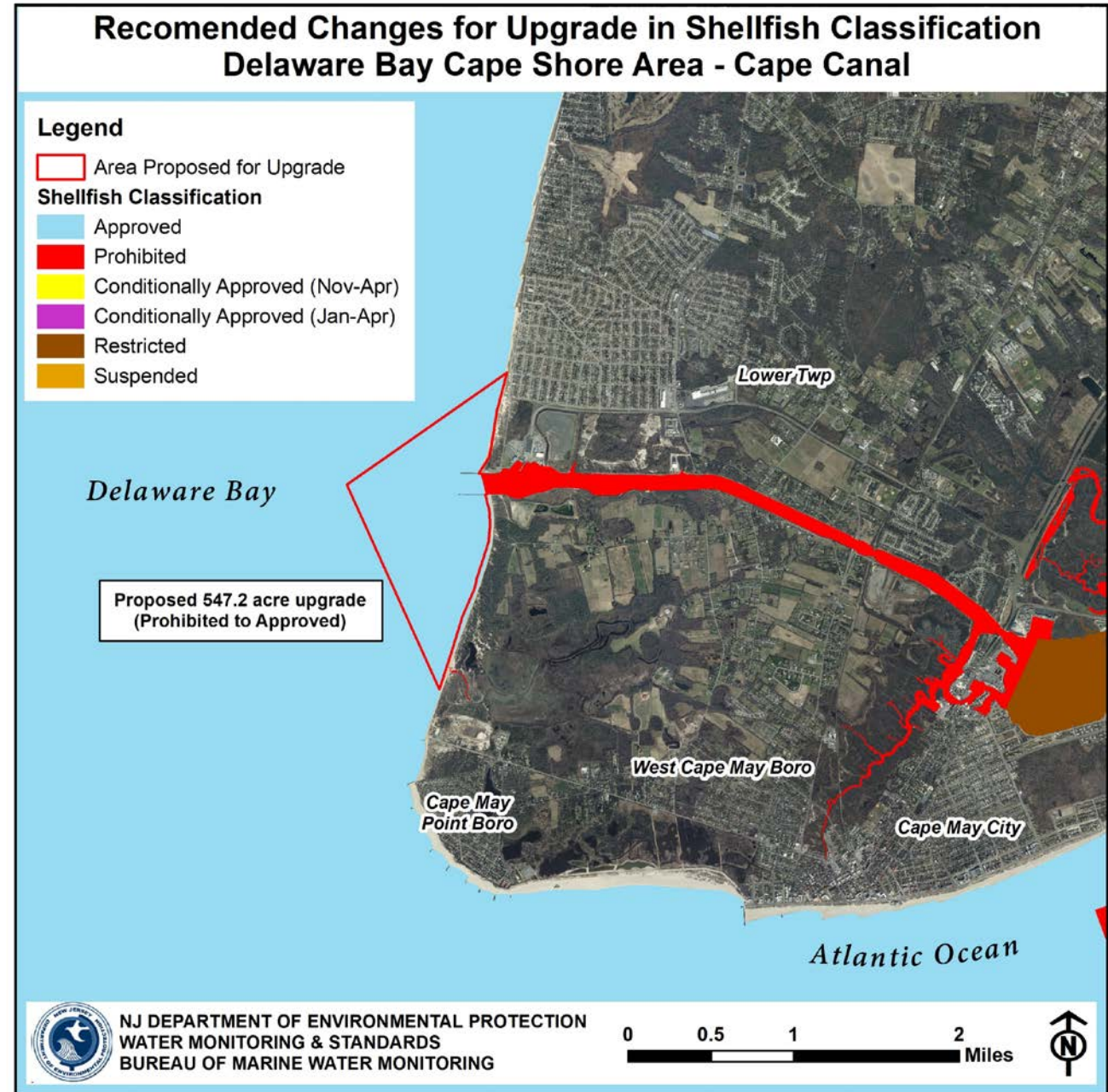
\*Already presented to stakeholders in March 2019

# Recommended Upgrade

Delaware Bay Cape Shore Area –  
Cape May Canal

*Prohibited to Approved – 547.2 acres*

*\* Already presented to  
stakeholders in March 2019*



# Recommended Changes for Upgrades and Downgrade in Shellfish Classification: Upper Delaware Bay Offshore, Delaware Bay Coastal and Cohansey Cove.

## Recommended Upgrades

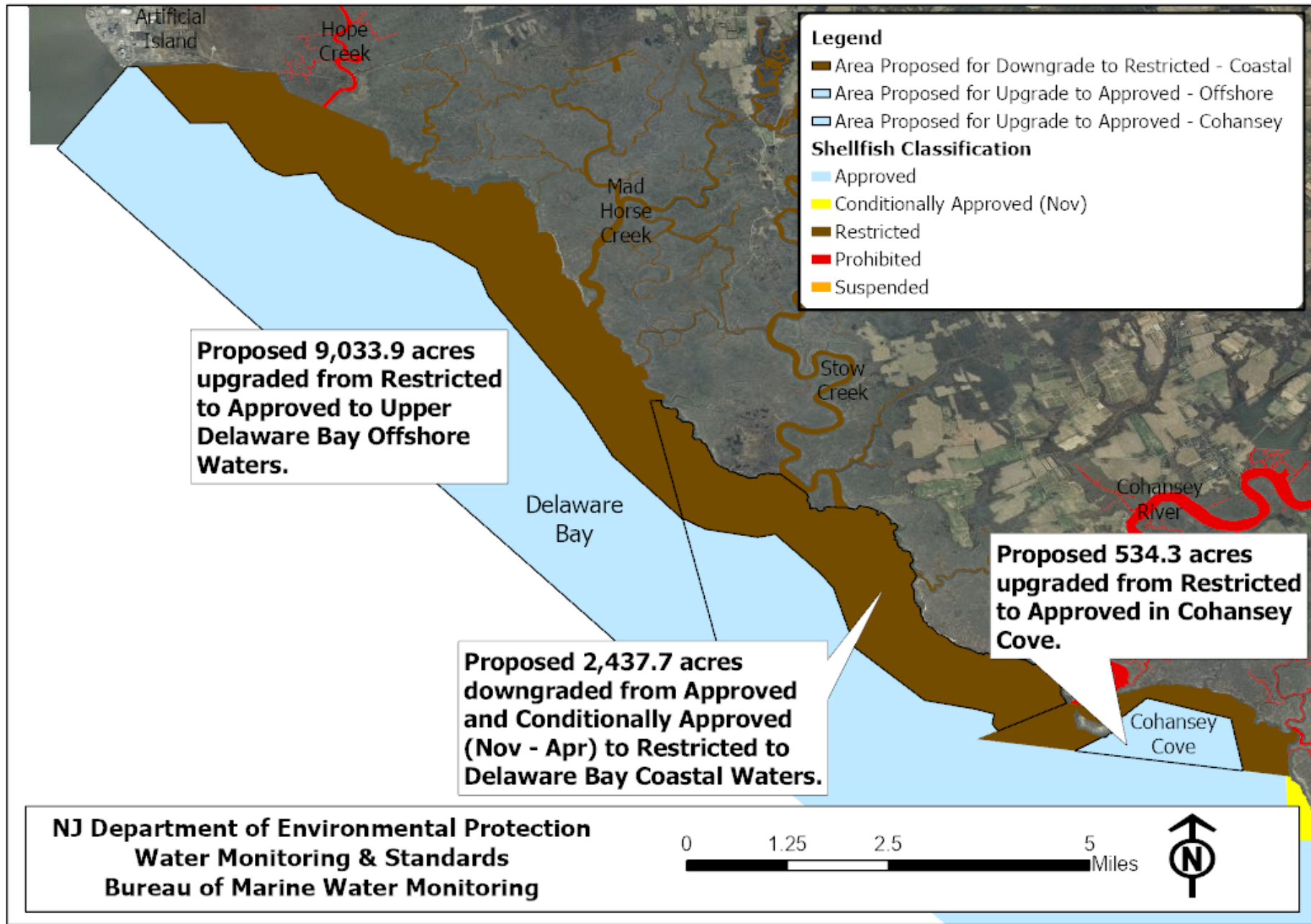
Upper Delaware Bay Offshore

*Restricted to Approved – 9,033.9 acres*

Cohansey Cove

*Restricted to Approved – 534.3 acres*

*\*New Upgrades*



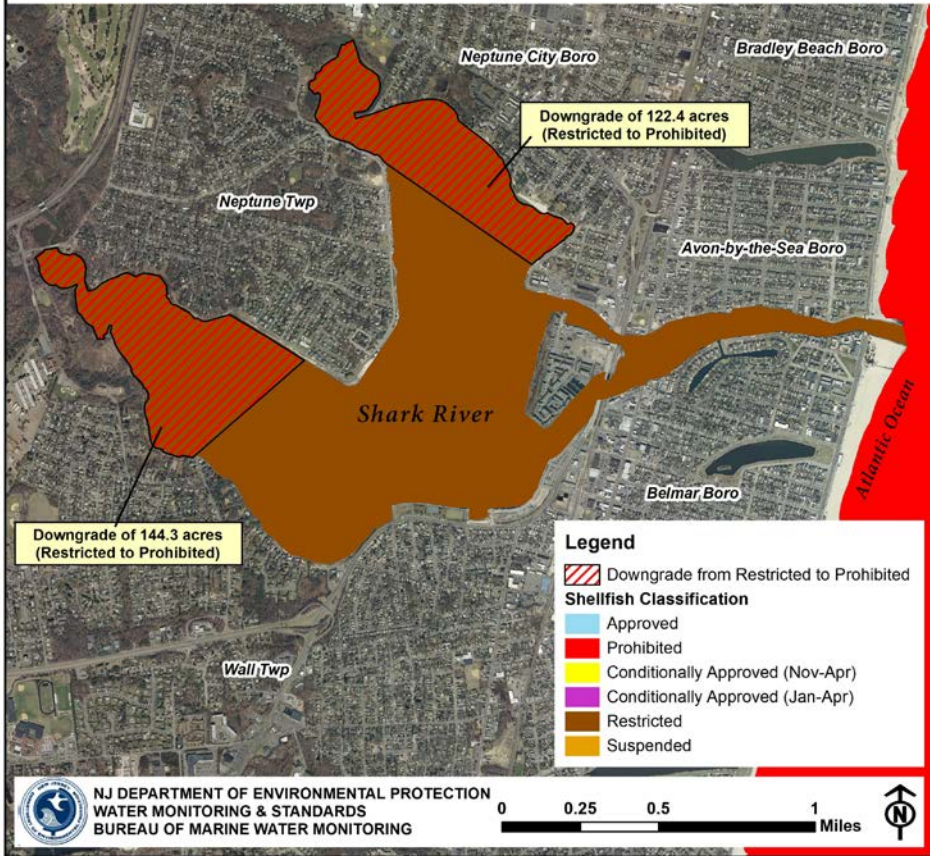
# Planned Downgrades – total 5,558.6 acres

- Shark River – Restricted to Prohibited – 266.7 acres previously stakeholdered + 153.7 acres added to downgrade after March 2019 stakeholder. New total downgrade acres = 420.4 acres
- Toms River – Restricted to Prohibited – 83.9 acres
- Ludlam Bay–Maple Swamp – Approved to Conditionally Approved (Nov-Apr) – 3.8 acres
- Middle Thorofare – Approved to Conditionally Approved (Nov-Apr) – 72 acres
- Gull Island Thorofare – Approved to Conditionally Approved (Nov-Apr) – 174.2 acres

## Downgrades added since last stakeholder meeting:

- Barnegat Bay – Approved/Conditionally Approved (Nov-Apr) to Restricted – 2,080.2 acres
- Delaware Bay Coastal Waters – Approved/Conditionally Approved to Restricted – 2,437.7 acres
- Cresse Thorofare – Approved to Conditionally Approved (Nov-Apr) – 286.4 acres

**Shellfish Classification Downgrades of Currently Suspended Waters  
Northeast Waterbody 4 - Shark River**



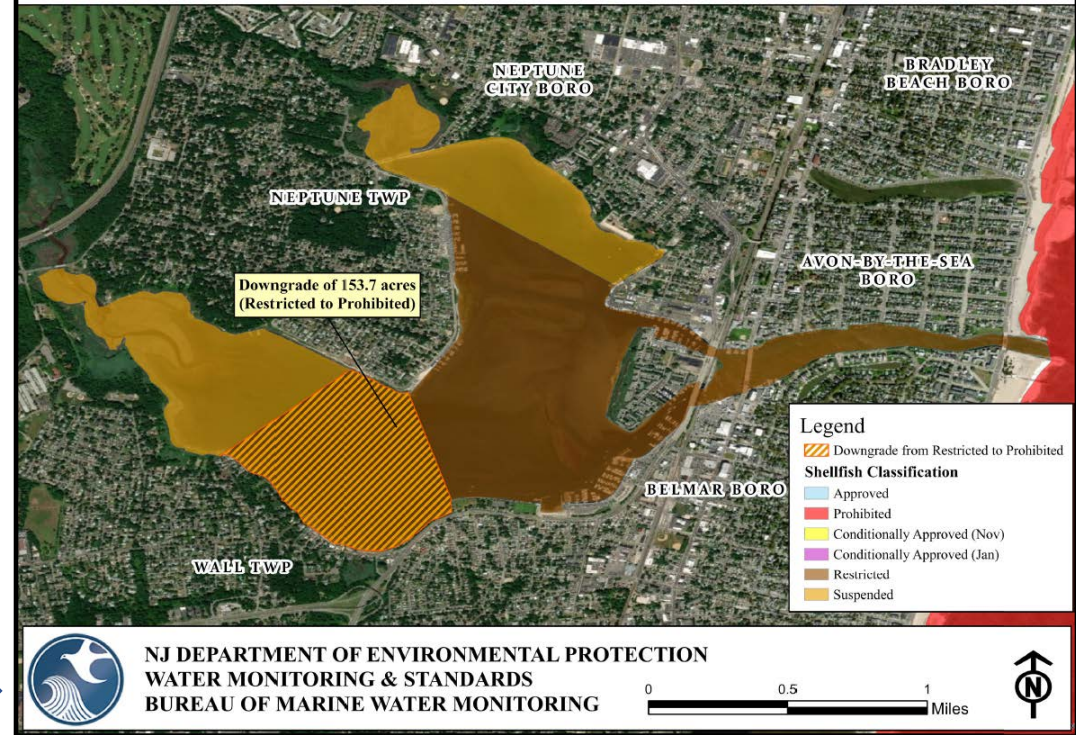
\* *Already presented to stakeholders in March 2019*

# Downgrade Shark River

*Restricted to Prohibited – 266.7 acres*

- Notice of Suspension signed on November 1, 2015
- Waters are currently *Suspended*
- No harvest lots in Shark River

**Shellfish Classification Downgrades of Currently Suspended Waters  
Northeast Waterbody 4 - Shark River**



Additional 153.7 acres added to this downgrade since Stakeholder even in March of 2019.

TOTAL Downgrade acres now = 266.7 + 153.7 = **420.4 acres**



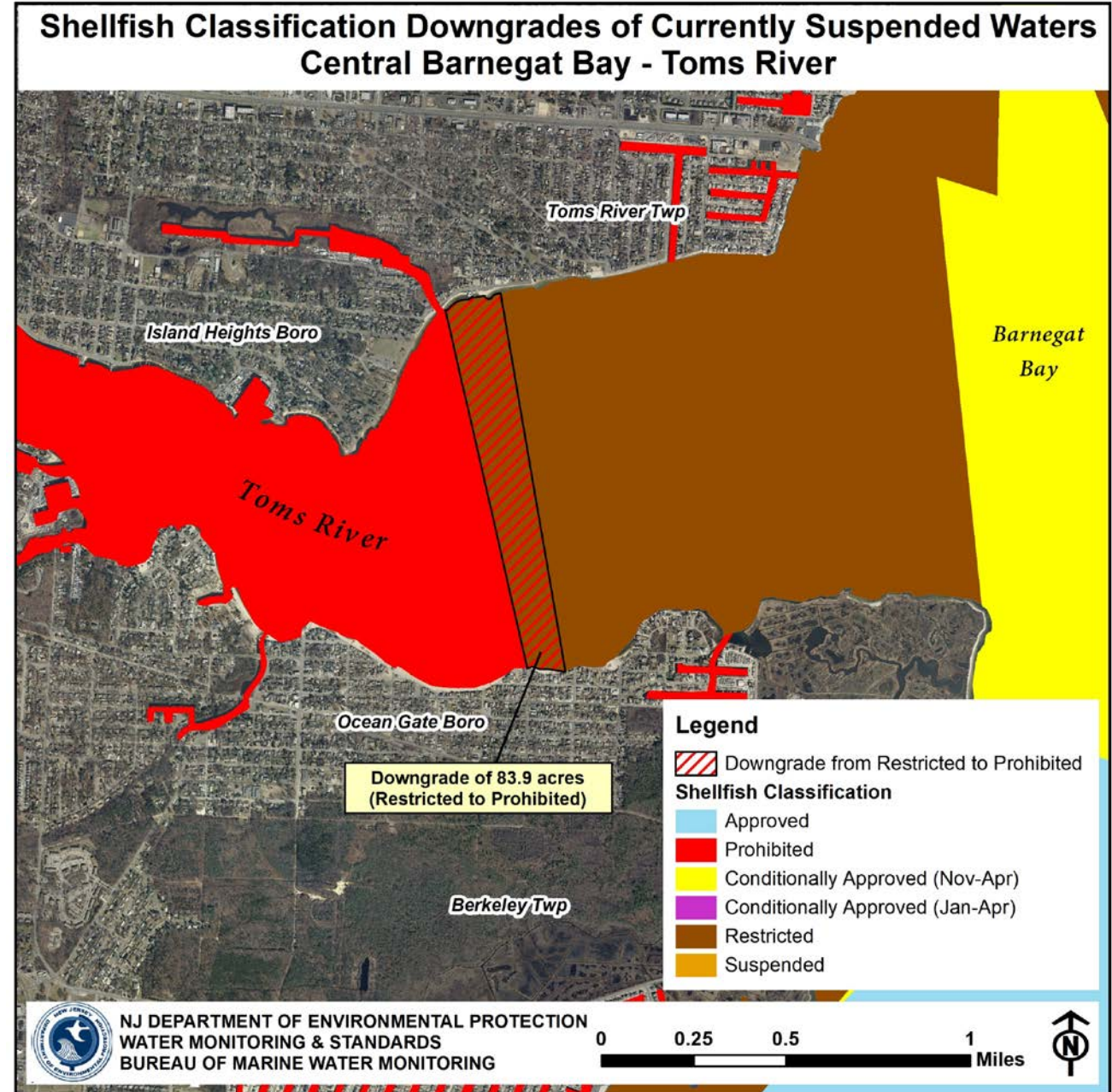
# Downgrade

## Toms River

*Restricted to Prohibited* – 83.9 acres

- Notice of Suspension signed on January 16, 2018
- Waters are currently *Suspended*

\* *Already presented to stakeholders in March 2019*



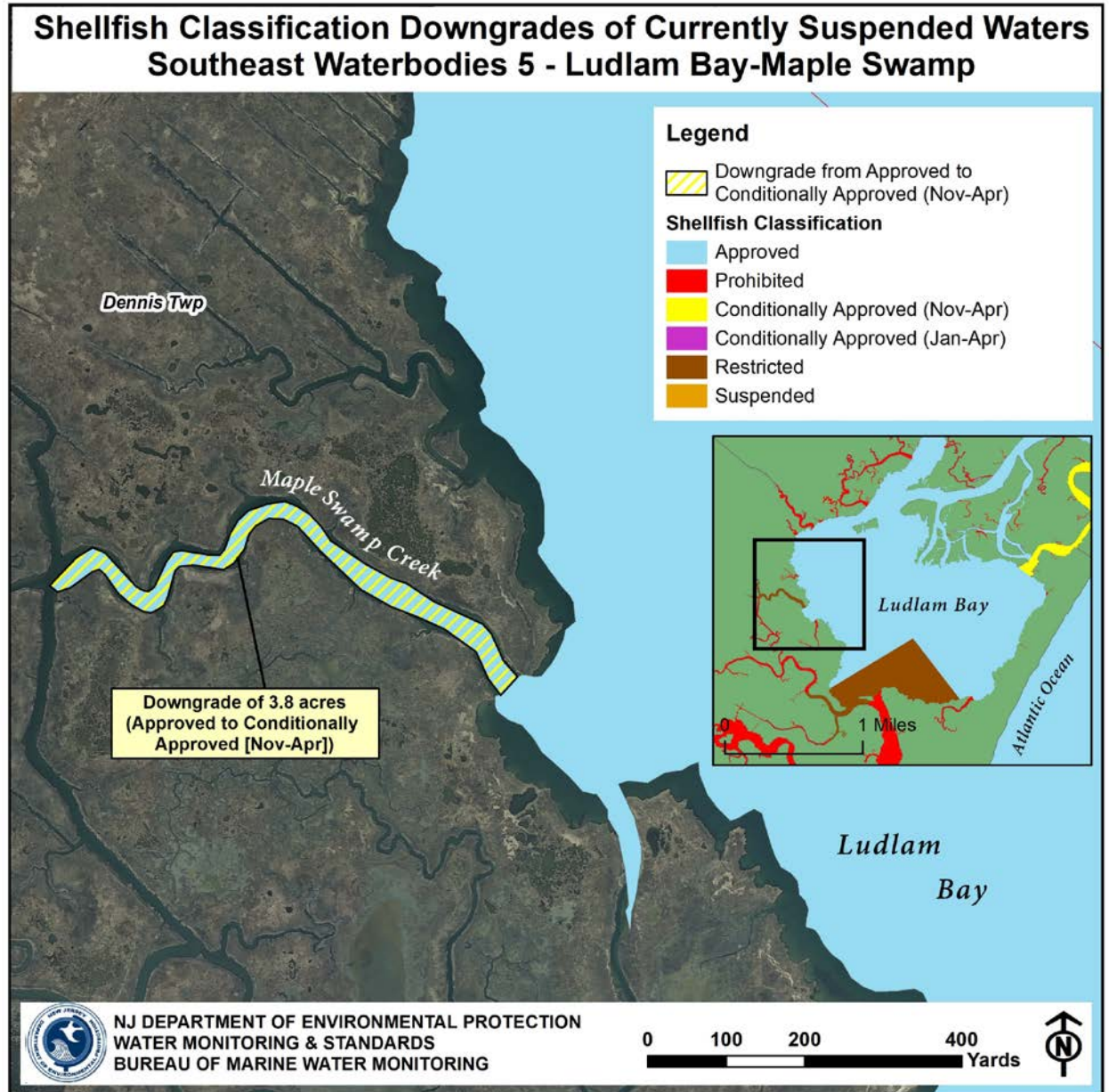
# Downgrade

## Ludlam Bay–Maple Swamp

*Approved to Conditionally Approved (Nov-Apr) – 3.8 acres*

- Notice of Suspension signed on January 16, 2018
- Waters are currently *Suspended*

*\* Already presented to stakeholders in March 2019*





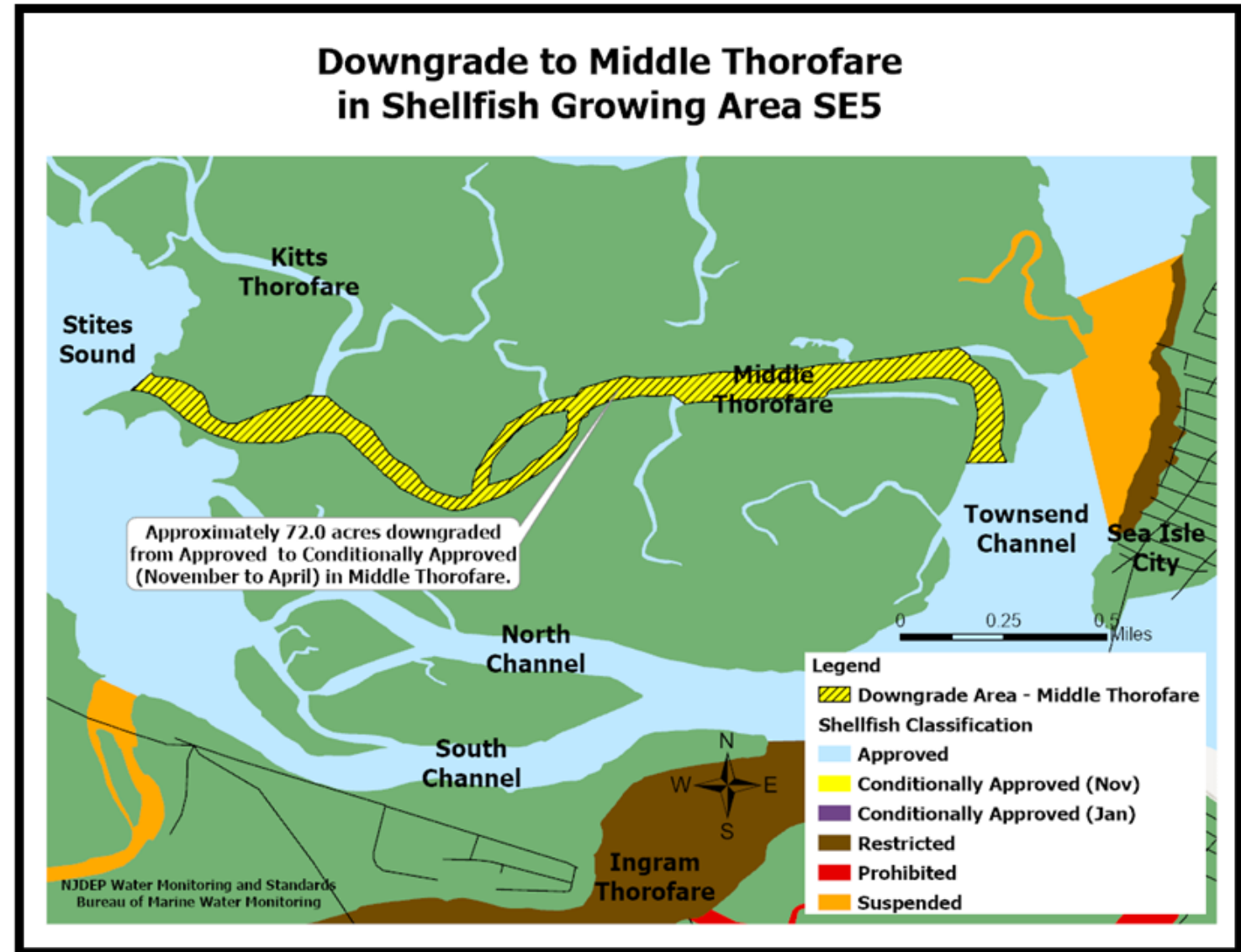
# Downgrade

## Middle Thorofare

*Approved to Conditionally Approved  
(Nov-Apr) – 72 acres*

- Notice of Suspension signed on May 1, 2018
- Waters are currently *Suspended*

*\* Already presented to  
stakeholders in March 2019*



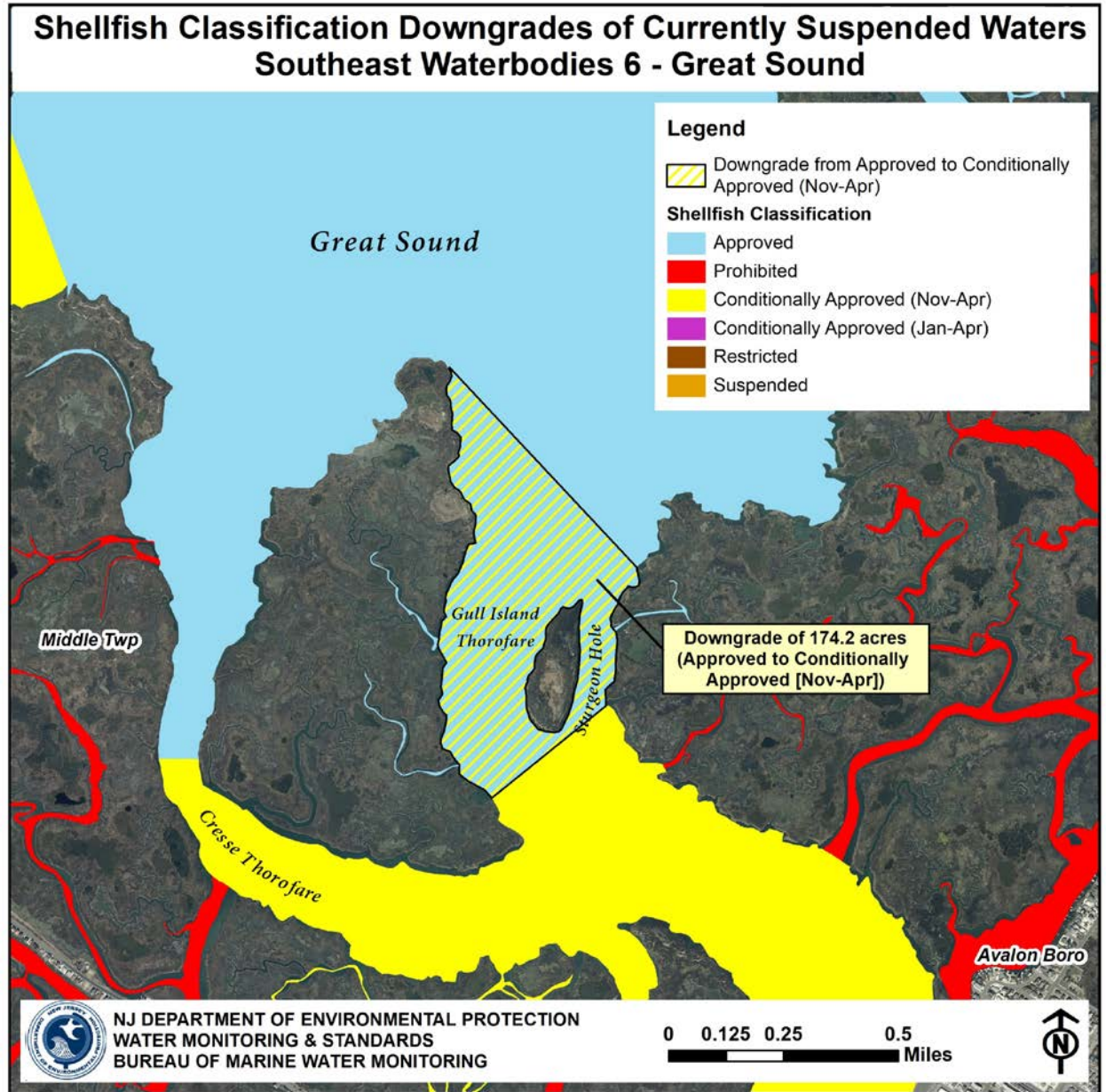
# Downgrade

## Gull Island Thorofare

*Approved to Conditionally Approved  
(Nov-Apr) – 174.2 acres*

- Notice of Suspension signed on June 15, 2020
- Waters are currently *Suspended*

*\* Already presented to  
stakeholders in March 2019*



# Downgrade

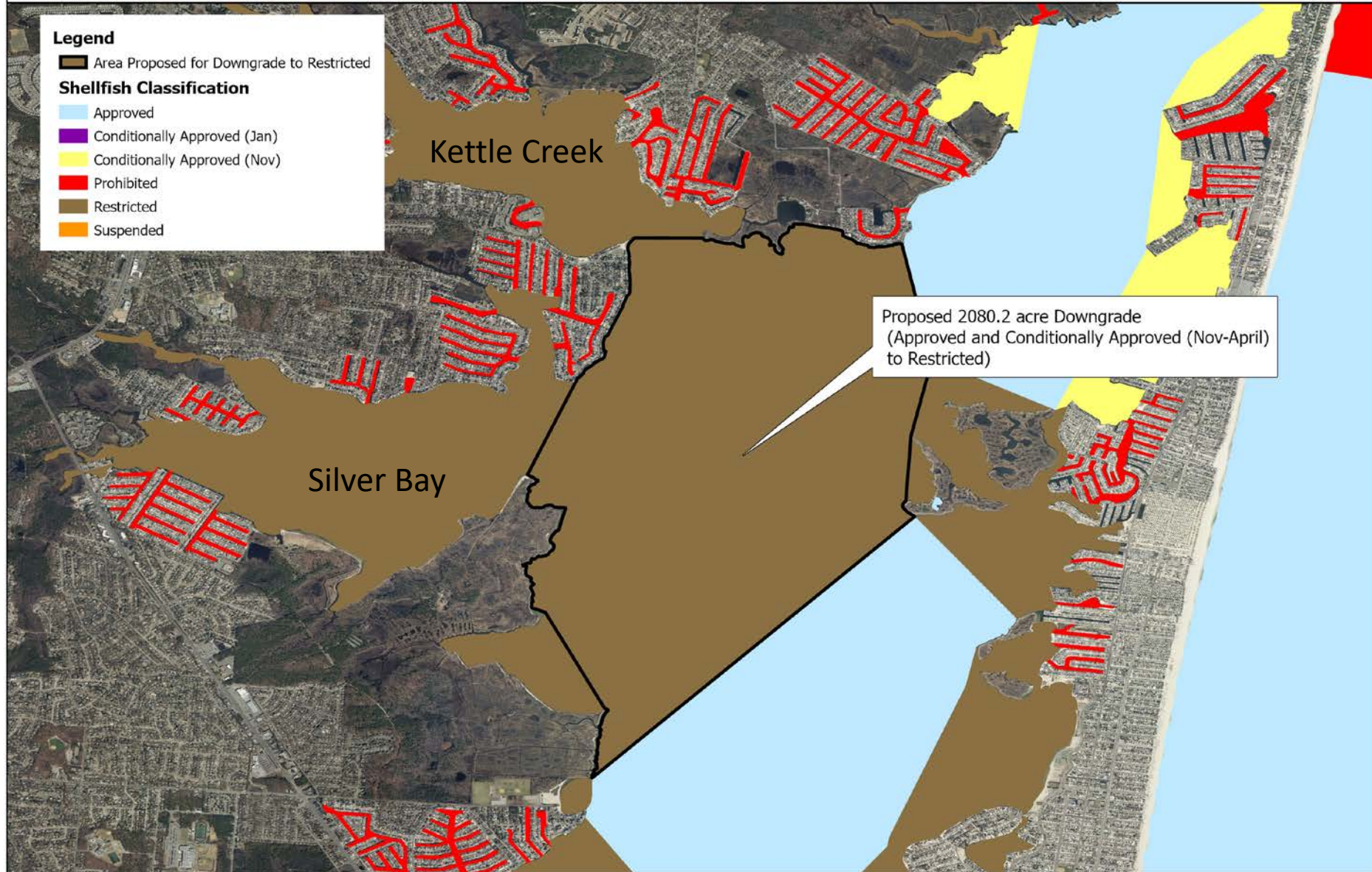
## Barnegat Bay

*Approved/Conditionally Approved (Nov-Apr) to Restricted – 2,080.2 acres*

- Notice of Suspension signed on February 23, 2021
- Waters are currently *Suspended*

*\*New downgrade*

### Recommended Changes for Downgrade in Shellfish Classification Barnegat Bay



NJ DEPARTMENT OF ENVIRONMENTAL PROTECTION  
WATER MONITORING AND STANDARDS  
BUREAU OF MARINE WATER MONITORING

0 0.25 0.5 1 Miles

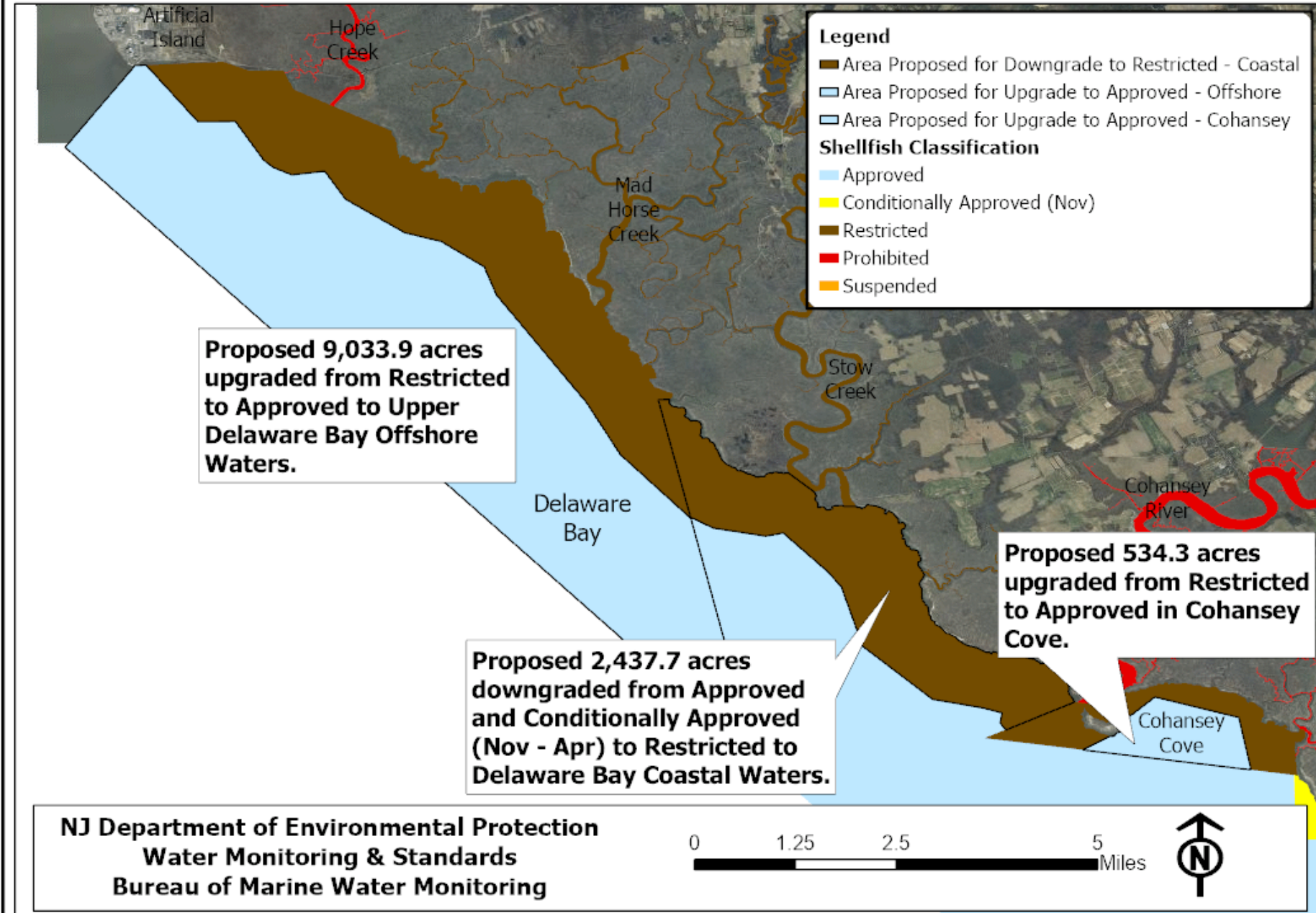


# Downgrade

Delaware Bay Coastal Waters

*Approved/Conditionally Approved (Nov-Apr) to Restricted – 2,437.7 acres*

## Recommended Changes for Upgrades and Downgrade in Shellfish Classification: Upper Delaware Bay Offshore, Delaware Bay Coastal and Cohansey Cove.



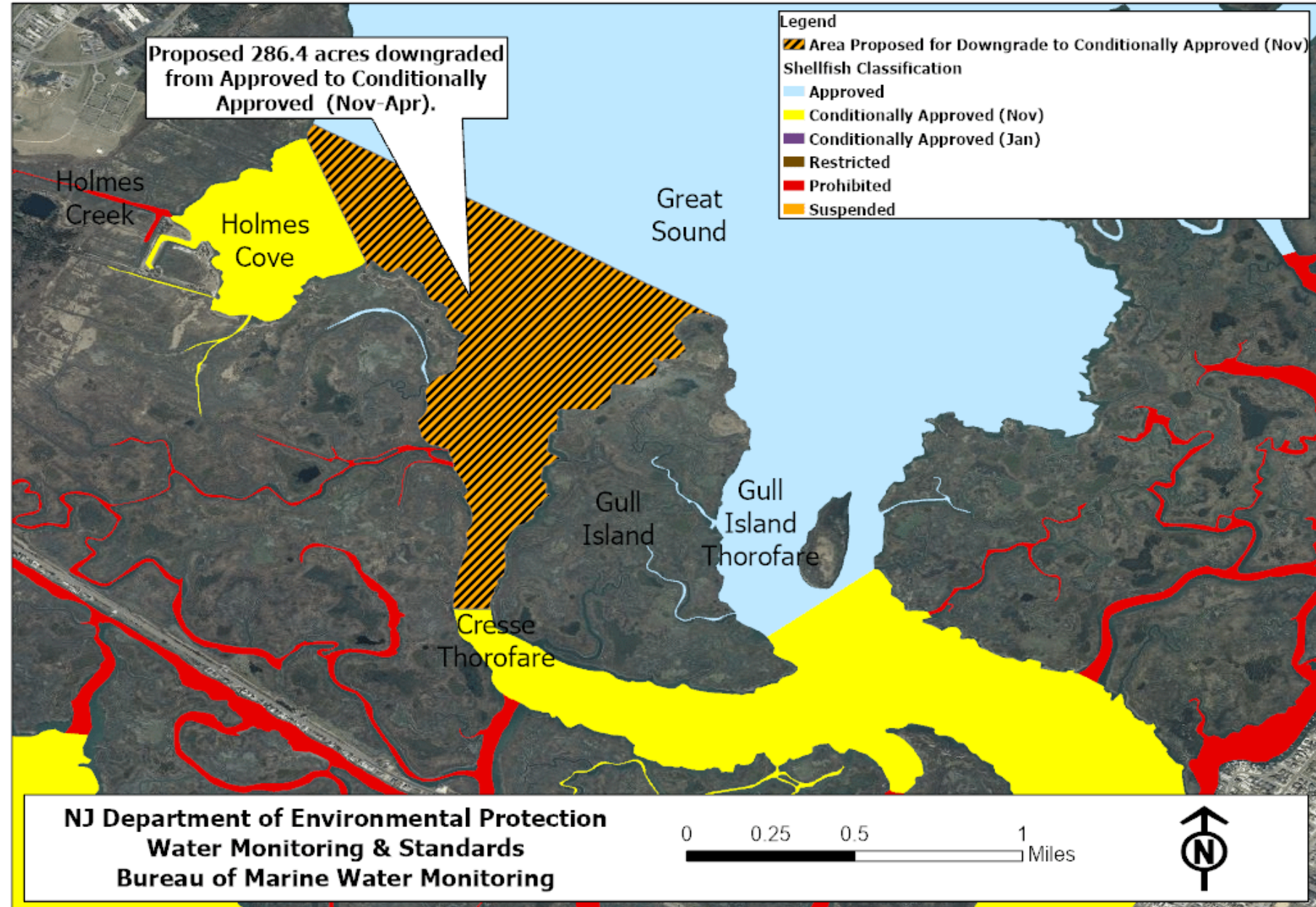
*\*New downgrade*

# Downgrade

Cresse Thorofare

*Approved to  
Conditionally Approved  
(Nov-Apr)– 286.4 acres*

## Recommended Changes for Downgrade to Shellfish Classification: North Section of Cresse Thorofare and Southwest Section of Great Sound.



*\*New downgrade*

Questions on the Upgrades & Downgrades before we move into the additional changes being proposed?

# Additional Changes to 7:12 Not Previously Presented to Stakeholders

## \*Housekeeping Items\*

- Re-naming “*Vibrio parahaemolyticus* Control Plan” to “*Vibrio* Control Plan” to include *Vibrio vulnificus* into control plan due to reported V-v illnesses.
- Replacing old references to the NSSP (ex: reference to 2019 NSSP instead of 2015).
- Removing reference to the requirement in 2016 to get a permit when the rule was first enacted.
- Adding reference to the collection of **monthly** production numbers via the Commercial Shellfish Aquaculture permit rather than the previously required annual total production number.
- Adding language to clarify the intent of the Commercial Shellfish Aquaculture Permit to cover commercial aquaculture activities only.

## Additional Changes to 7:12 Not Previously Presented to Stakeholders

- Proposing change to the language at N.J.A.C. 7:12-8.6 *Vibrio [parahaemolyticus]* Control Plan time to temperature control requirements for harvesting oysters to add sub-tidal aquaculture into the section of the rule that currently only focuses on tide dependent harvesting.
  - This change would apply the maximum hours to refrigeration (inclusive of any transport time) of four hours, starting when harvest begins, to sub-tidal aquaculture operations as well as tide-dependent harvesters.
  
- Eliminating the Relay Permit.
  - The hard clam relay permit, as written, conflicts with Fish & Wildlife regulations.
  - There is currently no active hard clam relay program.
  - The Transplant permit language will change to allow for currently allowed activities.
  - These changes will not result in any currently permissible activities being disallowed.
  - The permit mechanism is simply changing.



## Additional Changes to 7:12 Not Previously Presented to Stakeholders (Cont'd)

- Proposing changes to the husbandry and maintenance section of the Commercial Shellfish Aquaculture Permit to officially allow bulk tagging.
- Proposing to change the language of the restoration permit that currently requires 24 hour a day 7 day a week surveillance.
  - New language would allow for acceptable types of technology to provide sufficient surveillance.
  - All applications to use technology-based surveillance will require consultation between BMWM and Fish & Wildlife's Marine Enforcement staff before being approved.

## CLOSING REMARKS

This concludes the proposed changes to N.J.A.C. 7:12 Shellfish Growing Water Classification.

We will post this PowerPoint presentation to the Department's website for any stakeholders who were unable to attend tonight.

Once the rule changes are officially published in the N.J. Register, there will be a 60-day public comment period.

Any questions don't hesitate to reach out via email or phone:

Sarah Gentile, Section Chief

[Sarah.Gentile@dep.nj.gov](mailto:Sarah.Gentile@dep.nj.gov)

(609) 414-0791