

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL DRS15280-SB-5

Short Title: Marine Fisheries Reforms.

(Public)

Sponsors: Senators Sanderson, Brown, and Tillman (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REFORM THE MANAGEMENT OF MARINE FISHERIES IN NORTH
3 CAROLINA.

4 The General Assembly of North Carolina enacts:

6 **AMEND FISHERIES MANAGEMENT PROCESS**

7 **SECTION 1.1.(a)** G.S. 113-182.1 is repealed.

8 **SECTION 1.1.(b)** Article 15 of Chapter 113 of the General Statutes is amended by
9 adding a new section to read:

10 "**§ 113-182.2. Fishery Management Plans.**

11 (a) The Division of Marine Fisheries shall prepare Fishery Management Plans and
12 Fishery Management Plan Amendments for adoption by the Marine Fisheries Commission to
13 ensure a sustainable harvest for all significant species and for State marine and estuarine fisheries
14 identified by the Division that are not included under a federal or interstate management plan.
15 The Division shall establish Fishery Management Plans and Fishery Management Plan
16 Amendments based on fishery management standards and best available scientific, technical, and
17 economic data. Management measures adopted by the Commission for inclusion in a Fishery
18 Management Plan or Fishery Management Plan Amendment shall be consistent with such
19 standards and data. Fishery Management Plans and Fishery Management Plan Amendments shall
20 be developed in accordance with a Schedule established by the Division. The Division may
21 establish guidance criteria as to the contents and development process of Fishery Management
22 Plans and Fishery Management Plan Amendments.

23 (b) Each Fishery Management Plan and Fishery Management Plan Amendment shall be
24 designed to reflect that fishery's unique fishing practices so that one Fishery Management Plan
25 or Fishery Management Plan Amendment may apply to a specific fishery, while other Fishery
26 Management Plans or Fishery Management Plan Amendments may use alternative approaches
27 such as ecosystem-based management, gear, or geographic areas. Each Fishery Management
28 Plan or Fishery Management Plan Amendment shall:

- 29 (1) Contain necessary information pertaining to the fishery or fisheries, including
30 management recommendations, strategies, goals, and objectives; species
31 stock assessments, when applicable; fishery habitat and water quality
32 considerations consistent with Coastal Habitat Protection Plans adopted
33 pursuant to G.S. 143B-279.8; and social and economic impact of the fishery
34 to the State; and associated fishery ecosystem impacts.



- 1 (2) Recommend management actions, including adaptive management measures
2 that address the long-term viability, recovery, and conservation of stocks, to
3 ensure a sustainable harvest.
- 4 (3) Include conservation and management measures that will provide the greatest
5 overall benefit to the State, particularly with respect to commercial and
6 recreational opportunities, and the protection of marine ecosystems.
- 7 (4) Specify a time period, not to exceed two years from the date of the adoption
8 of the Fishery Management Plan or Fishery Management Plan Amendment,
9 to end overfishing. This subdivision shall not apply if the Fisheries Director
10 determines that the biology of the fish, environmental conditions, or lack of
11 sufficient scientific or technical data make implementing the requirements of
12 this subdivision incompatible with fishery management standards.
- 13 (5) Specify a time period, not to exceed 10 years from the date of the adoption of
14 the Fishery Management Plan or Fishery Management Plan Amendment, for
15 achieving a sustainable harvest. Notwithstanding subsequent rules or
16 proclamations, adoption of the Fishery Management Plan or Fishery
17 Management Plan Amendment means the time when the Commission votes
18 affirmatively to adopt the Fishery Management Plan or Fishery Management
19 Plan Amendment. This subdivision shall not apply if the Fisheries Director
20 determines that the biology of the fish, environmental conditions, or lack of
21 sufficient scientific or technical data make implementing the requirements of
22 this subdivision incompatible with fishery management standards.
- 23 (6) Each Fishery Management Plan or Fishery Management Plan Amendment
24 shall include a rebuilding Schedule to achieve and maintain a sustainable
25 harvest. This subdivision shall not apply if the Fisheries Director determines
26 that the biology of the fish, environmental conditions, or lack of sufficient
27 scientific or technical data make implementing the requirements of this
28 subdivision incompatible with fishery management standards.
- 29 (c) Once an initial Fishery Management Plan is adopted, management recommendations,
30 strategies, and measures shall be modified only through a Fishery Management Plan Amendment
31 consistent with G.S. 113-221.1. Fishery Management Plan Amendments may be specific to
32 single or multiple management priorities and may be based on information used to develop the
33 Fishery Management Plan.
- 34 (d) In the event of new, unanticipated, or unforeseen data, the time periods prescribed in
35 a Fishery Management Plan or Fishery Management Plan Amendment may be adjusted
36 consistent with subdivisions (4) and (5) of subsection (b) of this section as necessary by the
37 Fisheries Director and proposed for adoption by the Commission. Any adjustments to the time
38 periods to end overfishing and achieve a sustainable harvest shall be determined by the Division
39 using science-based methodology.
- 40 (e) To assist the Division in the development of each Fishery Management Plan and
41 Fishery Management Plan Amendment, the Fisheries Director shall provide a list of qualified
42 candidates to the Chair of the Marine Fisheries Commission from which the Chair shall appoint
43 members to each Fishery Management Plan Advisory Committee. Each Fishery Management
44 Plan Advisory Committee shall be composed of commercial fishermen, recreational fishermen,
45 and scientists, all with expertise in the fishery for which the Fishery Management Plan or Fishery
46 Management Plan Amendment is being developed.
- 47 (f) The Division shall consult with the regional advisory committees established pursuant
48 to G.S. 143B-289.57(e) regarding the preparation of each Fishery Management Plan or Fishery
49 Management Plan Amendment. Before submission of a Fishery Management Plan or Fishery
50 Management Plan Amendment for review by the Joint Legislative Oversight Committee on
51 Agriculture and Natural and Economic Resources, the Division shall seek advice from the

1 regional advisory committees and review any comment or recommendation that a regional
2 advisory committee submits to the Division within the time limits established in the chedule for
3 the development and adoption of Fishery Management Plans or Fishery Management Plan
4 Amendments. Before the Commission adopts a Fishery Management Plan or Fishery
5 Management Plan Amendment, the Commission shall consider any comment or recommendation
6 regarding the management measure that a regional advisory committee submits to the
7 Commission.

8 (g) Each Fishery Management Plan or Fishery Management Plan Amendment shall be
9 reviewed every five years to ensure that management measures meet the rebuilding Schedule
10 defined in the Fishery Management Plan or Fishery Management Plan Amendment to achieve a
11 sustainable harvest. An annual update shall be presented to the Commission during the
12 Commission's first business meeting each fiscal year. A Fishery Management Plan or Fishery
13 Management Plan Amendment may be retired from the Schedule when it is determined that the
14 objectives of the Fishery Management Plan or Fishery Management Plan Amendment are assured
15 under a federal or interstate plan or the species or stock is no longer a significant fishery in the
16 State.

17 (h) The Division may revise the Schedule for development of Fishery Management Plans
18 and Fishery Management Plan Amendments. The Commission may provide recommendations
19 to the Division regarding such revisions. The annual update process shall guide the Division
20 regarding potential Schedule adjustments necessary to restore, conserve, or protect the State's
21 marine and estuarine resources for a sustainable harvest.

22 (i) The Secretary of Environmental Quality shall monitor progress in the development
23 and adoption of Fishery Management Plans and Fishery Management Plan Amendments. The
24 Secretary shall report to the Joint Legislative Oversight Committee on Agriculture and Natural
25 and Economic Resources and the Fiscal Research Division within 30 days of the completion of
26 each Fishery Management Plan or Fishery Management Plan Amendment. The Committee shall
27 review each Fishery Management Plan and Fishery Management Plan Amendment within 30
28 days of the date the Fishery Management Plan or Fishery Management Plan Amendment is
29 submitted by the Secretary. The Committee may submit comments and recommendations on the
30 Fishery Management Plan or Fishery Management Plan Amendment to the Secretary within 30
31 days of the date the Fishery Management Plan or Fishery Management Plan Amendment was
32 submitted by the Secretary.

33 (j) The Marine Fisheries Commission shall adopt rules to implement Fishery
34 Management Plans in accordance with Chapter 150B of the General Statutes.

35 (k) To achieve sustainable harvest under a Fishery Management Plan, the Marine
36 Fisheries Commission may include in the Plan a recommendation that the General Assembly
37 limit the number of fishermen authorized to participate in the fishery. The Commission may
38 recommend that the General Assembly limit participation in a fishery only if the Commission
39 determines that sustainable harvest cannot otherwise be achieved. In determining whether to
40 recommend that the General Assembly limit participation in a fishery, the Commission shall
41 consider all of the following factors:

- 42 (1) Current participation in and dependence on the fishery.
- 43 (2) Past fishing practices in the fishery.
- 44 (3) Economics of the fishery.
- 45 (4) Capability of fishing vessels used in the fishery to engage in other fisheries.
- 46 (5) Cultural and social factors relevant to the fishery and any affected fishing
47 communities.
- 48 (6) Capacity of the fishery to support biological parameters.
- 49 (7) Equitable resolution of competing social and economic interests.
- 50 (8) Any other relevant considerations.

1 (l) If the Secretary, in consultation with the Fisheries Director, determines that it is in the
2 interest of maintaining a sustainable harvest for a fishery, the Secretary may authorize the
3 development of a Fishery Management Plan Supplement to an existing Fishery Management Plan
4 or Fishery Management Plan Amendment. A Fishery Management Plan Supplement is a
5 temporary mechanism contemplated for conditions or circumstances when available science
6 indicates that an emergency exists affecting the sustainable harvest of a fishery and it is
7 impracticable to address through the Fishery Management Plan or Fishery Management Plan
8 Amendment process. To assist the Secretary, the Division shall provide the Secretary with
9 pertinent scientific and technical information. Development of a Fishery Management Plan
10 Supplement pursuant to this subsection shall be exempt from subsections (e), (f), and (i) of this
11 section, the Schedule established by the Division, and Division guidance criteria for Fishery
12 Management Plans and Fishery Management Plan Amendments. Fishery Management Plan
13 Supplements shall either be incorporated into the Fishery Management Plan or Fishery
14 Management Plan Amendment or expire upon the adoption of a Fishery Management Plan or
15 Fishery Management Plan Amendment."

16 **SECTION 1.1.(c)** Sections 1.1(a) and 1.1(b) of this act become effective July 1,
17 2019. G.S. 113-182.2, as enacted by Section 1.1(b) of this act, applies to Fishery Management
18 Plans and Fishery Management Plan Amendments developed on or after that date. Fishery
19 Management Plans and Fishery Management Plan Amendments that were under development
20 prior to July 1, 2019, shall continue under the process set out in G.S. 113-182.1, as repealed by
21 Section 1.1(a) of this act.

22 **SECTION 1.2.** G.S. 113-221.1 reads as rewritten:

23 **"§ 113-221.1. Proclamations; emergency review.**

24 (a) Chapter 150B of the General Statutes does not apply to proclamations issued under
25 this Article.

26 (b) The Marine Fisheries Commission may delegate to the Fisheries Director the
27 authority to issue proclamations suspending or implementing, in whole or in part, particular rules
28 of the Commission ~~that whose application~~ may be affected by variable conditions. Proclamations
29 shall be consistent with management measures adopted pursuant to G.S. 113-182.2 or as
30 otherwise provided by rules of the Commission. These proclamations shall be issued by the
31 Fisheries Director or by a person designated by the Fisheries Director. Except as provided in this
32 subsection, all proclamations shall state the hour and date upon which they become effective and
33 shall be issued at least 48 hours in advance of the effective date and time. A proclamation that
34 prohibits the taking of certain fisheries resources for reasons of public health or that governs a
35 quota-managed fishery may be made effective immediately upon issuance. A proclamation to
36 reopen the taking of certain fisheries resources closed for reasons of public health shall be issued
37 at least 12 hours in advance of the effective date and time of the reopening. A person who violates
38 a proclamation that is made effective immediately upon issuance shall not be charged with a
39 criminal offense for the violation if the violation occurred between the time of issuance and 48
40 hours after the issuance and the person did not have actual notice of the issuance of the
41 proclamation. Fisheries resources taken or possessed by any person in violation of any
42 proclamation may be seized regardless of whether the person had actual notice of the
43 proclamation. A permanent file of the text of all proclamations shall be maintained in the office
44 of the Fisheries Director. Certified copies of proclamations are entitled to judicial notice in any
45 civil or criminal proceeding. The Fisheries Director shall make every reasonable effort to give
46 actual notice of the terms of any proclamation to persons who may be affected by the
47 proclamation. Reasonable effort includes a press release to communications media, posting of a
48 notice at docks and other places where persons affected may gather, personal communication by
49 inspectors and other agents of the Fisheries Director, and other measures designed to reach the
50 persons who may be affected. It is a defense to an enforcement action for a violation of a
51 proclamation that a person was prevented from receiving notice of the proclamation due to a

1 natural disaster or other act of God occasioned exclusively by violence of nature without
2 interference of any human agency and that could not have been prevented or avoided by the
3 exercise of due care or foresight.

4 (c) All persons who may be affected by proclamations issued by the Fisheries Director
5 are under a duty to keep themselves informed of current proclamations. It is no defense in any
6 criminal prosecution for the defendant to show that the defendant in fact received no notice of a
7 particular proclamation. In any prosecution for violation of a proclamation, or in which proof of
8 matter contained in a proclamation is involved, the Department is deemed to have complied with
9 publication procedures; and the burden is on the defendant to show, by the greater weight of the
10 evidence, substantial failure of compliance by the Department with the required publication
11 procedures.

12 (d) Pursuant to the request of five or more members of the Marine Fisheries Commission,
13 the Chair of the Marine Fisheries Commission may call an emergency meeting of the
14 Commission to review an issuance or proposed issuance of proclamations under the authority
15 delegated to the Fisheries Director pursuant to subsection (b) of this section or to review the
16 desirability of directing the Fisheries Director to issue a proclamation to prohibit or allow the
17 taking of certain fisheries ~~resources~~.resources, except for management measures already adopted
18 pursuant to G.S. 113-182.2. At least 48 hours prior to any emergency meeting called pursuant to
19 this subsection, a public announcement of the meeting shall be issued that describes the action
20 requested by the members of the Marine Fisheries Commission. The Department shall make
21 every reasonable effort to give actual notice of the meeting to persons who may be affected. After
22 its review is complete, the Marine Fisheries Commission, consistent with its duty to protect,
23 preserve, and enhance the commercial and sports fisheries resources of the State, may approve,
24 cancel, or modify the previously issued or proposed proclamation under review or may direct the
25 Fisheries Director to issue a proclamation that prohibits or allows the taking of certain fisheries
26 resources. An emergency meeting called pursuant to this subsection and any resulting orders
27 issued by the Marine Fisheries Commission are exempt from the provisions of Article 2A of
28 Chapter 150B of the General Statutes. The decisions of the Marine Fisheries Commission shall
29 be the final decision of the State and shall not be set aside on judicial review unless found to be
30 arbitrary and capricious."
31

32 AMEND MARINE FISHERIES COMMISSION

33 SECTION 2.1. G.S. 143B-289.52 reads as rewritten:

34 "§ 143B-289.52. Marine Fisheries Commission – powers and duties.

35 (a) The Marine Fisheries Commission shall adopt rules to be followed in the
36 management, protection, preservation, and enhancement of the marine and estuarine resources
37 within its jurisdiction, as described in G.S. 113-132, including commercial and sports fisheries
38 resources. Rules adopted by the Commission and management measures included in the rules
39 shall be based on recognized fishery management standards and the best available scientific,
40 technical, and economic data. The Marine Fisheries Commission shall have the power and duty:

- 41 (1) To authorize, license, regulate, prohibit, prescribe, or restrict all forms of
42 marine and estuarine resources in coastal fishing waters with respect to:
 - 43 a. Time, place, character, or dimensions of any methods or equipment
44 that may be employed in taking fish.
 - 45 b. Seasons for taking fish.
 - 46 c. Size limits on and maximum quantities of fish that may be taken,
47 possessed, bailed to another, transported, bought, sold, or given away.
- 48 (2) To provide fair regulation of commercial and recreational fishing groups in
49 the interest of the public.
- 50 (3) To adopt rules and take all steps necessary to develop and improve
51 mariculture, including the cultivation, harvesting, and marketing of shellfish

- 1 and other marine resources in the State, involving the use of public grounds
2 and private beds as provided in G.S. 113-201.
- 3 (4) To close areas of public bottoms under coastal fishing waters for such time as
4 may be necessary in any program of propagation of shellfish as provided in
5 G.S. 113-204.
- 6 (5) In the interest of conservation of the marine and estuarine resources of the
7 State, to institute an action in the superior court to contest the claim of title or
8 claimed right of fishery in any navigable waters of the State registered with
9 the Department as provided in G.S. 113-206(d).
- 10 (6) To make reciprocal agreements with other jurisdictions respecting any of the
11 matters governed in this Subchapter as provided by G.S. 113-223.
- 12 (7) To adopt relevant provisions of federal laws and regulations as State rules
13 pursuant to G.S. 113-228.
- 14 (8) To delegate to the Fisheries Director the authority by proclamation to suspend
15 or implement, in whole or in part, a particular rule of the Commission that
16 may be affected by variable conditions or circumstances to a fishery resource
17 or habitat as provided in G.S. 113-221.1.
- 18 (9) To comment on and otherwise participate in the determination of permit
19 applications received by State agencies that may have an effect on the marine
20 and estuarine resources of the State.
- 21 (10) To adopt Fishery Management Plans ~~as provided in G.S. 113-182.1, to~~
22 ~~establish a Priority List to determine the order in which Fishery Management~~
23 ~~Plans are developed, to establish a Schedule for the development and adoption~~
24 ~~of each Fishery Management Plan, and to establish guidance criteria as to the~~
25 ~~contents of Fishery Management Plans and Fishery Management Plan~~
26 Amendments as provided in G.S. 113-182.2.
- 27 (11) To approve Coastal Habitat Protection Plans as provided in G.S. 143B-279.8.
- 28 (12) Except as may otherwise be provided, to make the final agency decision in all
29 contested cases involving matters within the jurisdiction of the Commission.
- 30 (13) To adopt rules to define fishing gear as either recreational gear or commercial
31 gear.
- 32 (b) The Marine Fisheries Commission shall have the power and duty to establish
33 standards and adopt rules:
- 34 (1) To implement the provisions of Subchapter IV of Chapter 113 as provided in
35 G.S. 113-134.
- 36 (2) To manage the disposition of confiscated property as set forth in
37 G.S. 113-137.
- 38 (3) To govern all license requirements prescribed in Article 14A of Chapter 113
39 of the General Statutes.
- 40 (4) To regulate the importation and exportation of fish, including non-native
41 species, and equipment that may be used in taking or processing fish,
42 including non-native species, as necessary to enhance the conservation of
43 marine and estuarine resources of the State as provided in G.S. 113-170.
- 44 (5) To regulate the possession, transportation, and disposition of seafood, as
45 provided in G.S. 113-170.4.
- 46 (6) To regulate the disposition of the young of edible fish, as provided by
47 G.S. 113-185.
- 48 (7) To manage the leasing of public grounds for mariculture, including oysters
49 and clam production, as provided in G.S. 113-202.
- 50 (8) To govern the utilization of private fisheries, as provided in G.S. 113-205.

- 1 (9) To impose further restrictions upon the throwing of fish offal in any coastal
2 fishing waters, as provided in G.S. 113-265.
- 3 (10) To regulate the location and utilization of artificial reefs in coastal waters.
- 4 (11) To regulate the placement of nets and other sports or commercial fishing
5 apparatus in coastal fishing waters with regard to navigational or recreational
6 safety as well as from a conservation standpoint.
- 7 (c) The Commission is authorized to authorize, license, prohibit, prescribe, or restrict:
- 8 (1) The opening and closing of coastal fishing waters, except as to inland game
9 fish, whether entirely or only as to the taking of particular classes of fish, use
10 of particular equipment, or as to other activities.
- 11 (2) The possession, cultivation, transportation, importation, exportation, sale,
12 purchase, acquisition, and disposition of all marine and estuarine resources
13 and all related equipment, implements, vessels, and conveyances as necessary
14 to carry out its duties.
- 15 (d) The Commission may adopt rules required by the federal government for
16 grants-in-aid for coastal resource purposes that may be made available to the State by the federal
17 government. This section is to be liberally construed in order that the State and its citizens may
18 benefit from federal grants-in-aid.
- 19 (d1) The Commission may regulate participation in a fishery that is subject to a federal
20 fishery management plan if that plan imposes a quota or allocation on the State for the harvest or
21 landing of fish in the fishery. The Commission may use any additional criteria aside from holding
22 a Standard Commercial Fishing License or licenses issued under Article 14B of Chapter 113 of
23 the General Statutes to develop limited-entry fisheries. The Commission may establish a fee for
24 each license established pursuant to this subsection in an amount that does not exceed five
25 hundred dollars (\$500.00).
- 26 (d2) To ensure an orderly transition from one permit year to the next, the Division may
27 issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the
28 Division receives for the issuance of a permit prior to the beginning of a permit year shall not
29 revert at the end of the fiscal year in which the revenue is received and shall be credited and
30 available to the Division for the permit year in which the permit is valid.
- 31 (e) The Commission may adopt rules to implement or comply with a fishery management
32 plan adopted by the Atlantic States Marine Fisheries Commission or adopted by the United States
33 Secretary of Commerce pursuant to the Magnuson-Stevens Fishery Conservation and
34 Management Act, 16 U.S.C. § 1801, et seq. Notwithstanding G.S. 150B-21.1(a), the Commission
35 may adopt temporary rules under this subsection at any time within six months of the adoption
36 or amendment of a fishery management plan or the notification of a change in management
37 measures needed to remain in compliance with a fishery management plan.
- 38 (e1) A supermajority of the Commission shall be six members. A supermajority shall be
39 necessary to override recommendations from the Division of Marine Fisheries regarding
40 measures needed to end overfishing or to rebuild overfished stocks.
- 41 (f) The Commission shall adopt rules as provided in this Chapter. All rules adopted by
42 the Commission shall be enforced by the Department of Environmental Quality.
- 43 (g) As a quasi-judicial agency, the Commission, in accordance with Article IV, Section
44 3 of the Constitution of North Carolina, has those judicial powers reasonably necessary to
45 accomplish the purposes for which it was created.
- 46 (h) Social security numbers and identifying information obtained by the Commission or
47 the Division of Marine Fisheries shall be treated as provided in G.S. 132-1.10. For purposes of
48 this subsection, "identifying information" also includes a person's mailing address, residence
49 address, e-mail address, Commission-issued customer identification number, date of birth, and
50 telephone number.

1 (i) The Commission may adopt rules to exempt individuals who participate in organized
2 fishing events held in coastal or joint fishing waters from recreational fishing license
3 requirements for the specified time and place of the event when the purpose of the event is
4 consistent with the conservation objectives of the Commission."

5 SECTION 2.2. G.S. 143B-289.54 reads as rewritten:

6 "§ 143B-289.54. Marine Fisheries Commission – members; appointment; term; oath;
7 ethical standards; removal; compensation; ~~staff~~staff; transparency.

8 (a) Members, Selection. – The Marine Fisheries Commission shall consist of nine
9 members appointed by the Governor as follows:

10 (1) One person actively engaged in, or recently retired from, commercial fishing
11 as demonstrated by currently or recently deriving at least fifty percent (50%)
12 of annual earned income from taking and selling fishery resources in coastal
13 fishing waters of the State. ~~The spouse of a commercial fisherman who meets~~
14 ~~the criteria of this subdivision may be appointed under this subdivision.~~

15 (2) One person actively engaged in, or recently retired from, commercial fishing
16 as demonstrated by currently or recently deriving at least fifty percent (50%)
17 of annual earned income from ~~taking and selling fishery~~selling wild and
18 aquacultured resources in coastal fishing waters of the State. ~~The spouse of a~~
19 ~~commercial fisherman who meets the criteria of this subdivision may be~~
20 ~~appointed under this subdivision.~~

21 (3) One person actively connected with, and experienced as, a licensed fish dealer
22 or in seafood processing or distribution as demonstrated by deriving at least
23 fifty percent (50%) of annual earned income from activities involving the
24 buying, selling, processing, or distribution of seafood landed in this State. The
25 spouse of a person qualified under this subdivision may be appointed provided
26 that the spouse is actively involved in the qualifying business.

27 (4) One person actively engaged in recreational sports fishing in coastal waters in
28 this State. An appointee under this subdivision may not derive more than ten
29 percent (10%) of annual earned income from sports fishing activities.

30 (5) One person actively engaged in recreational sports fishing in coastal waters in
31 this State. An appointee under this subdivision may not derive more than ten
32 percent (10%) of annual earned income from sports fishing activities.

33 (6) One person actively engaged in the for-hire or sports fishing industry
34 industries as demonstrated by deriving at least fifty percent (50%) of annual
35 earned income from selling goods or services in this State. The spouse of a
36 person qualified under this subdivision may be appointed provided that the
37 spouse is actively involved in the qualifying business.

38 (7) One person ~~having general knowledge of and experience related to subjects~~
39 ~~and persons regulated by the Commission who is a recognized habitat, water~~
40 quality, or ecosystems scientist having special training and expertise in marine
41 and estuarine ecology, water quality, and habitat protection, or similar
42 knowledge. A person appointed under this subdivision may not receive more
43 than ten percent (10%) of annual earned income from either the commercial
44 or sports fishing industries, including the processing and distribution of
45 seafood.

46 (8) One person ~~having general knowledge of and experience related to subjects~~
47 ~~and persons regulated by the Commission who is a recognized fisheries~~
48 scientist having special training and expertise in marine and estuarine fisheries
49 biology, ecology, population dynamics, water quality, habitat protection, or
50 similar knowledge. A person appointed under this subdivision may not receive
51 more than ten percent (10%) of annual earned income from either the

1 commercial or sports fishing industries, including the processing and
2 distribution of seafood.

- 3 (9) One person who is a recognized fisheries scientist having special training and
4 expertise in marine and estuarine fisheries biology, ecology, population
5 dynamics, water quality, habitat protection, or similar knowledge. A person
6 appointed under this subdivision may not receive more than ten percent (10%)
7 of annual earned income from either the commercial or sports fishing
8 industries, including the processing and distribution of seafood.

9 (b) Residential Qualifications. – For purposes of providing regional representation on the
10 Commission, the following three coastal regions of the State are designated: (i) Northeast Coastal
11 Region comprised of Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax, Hertford,
12 Martin, Northampton, Pasquotank, Perquimans, Tyrrell, and Washington Counties, (ii) Central
13 Coastal Region comprised of Beaufort, Carteret, Craven, Hyde, Jones, and Pamlico Counties;
14 and (iii) Southeast Coastal Region comprised of Bladen, Brunswick, Columbus, New Hanover,
15 Onslow, and Pender Counties. Persons appointed under subdivisions (1), (2), (3), (4), and (8) of
16 subsection (a) of this section shall be residents of one of the coastal regions of the State. The
17 membership of the Commission shall include at least one person who is a resident of ~~each of the~~
18 three coastal regions of the State. the Northeast Coastal Region, one person who is a resident of
19 the Central Coastal Region, and one person who is a resident of the Southeast Coastal Region.

20 (c) Additional Considerations. – In making appointments to the Commission, the
21 Governor shall provide for appropriate representation of women and minorities on the
22 Commission.

23 (d) Terms. – The term of office of members of the Commission is three years. A member
24 may be reappointed to any number of successive three-year terms. Upon the expiration of a
25 three-year term, a member shall continue to serve until a successor is appointed and duly qualified
26 as provided by G.S. 128-7. The term of members appointed under subdivisions (1), (4), and (7)
27 of subsection (a) of this section shall expire on 30 June of years evenly divisible by three. The
28 term of members appointed under subdivisions (2), (5), and (8) of subsection (a) of this section
29 shall expire on 30 June of years that precede by one year those years that are evenly divisible by
30 three. The term of members appointed under subdivisions (3), (6), and (9) of subsection (a) of
31 this section shall expire on 30 June of years that follow by one year those years that are evenly
32 divisible by three.

33 (e) Vacancies. – An appointment to fill a vacancy shall be for the unexpired balance of
34 the term.

35 (f) Oath of Office. – Each member of the Commission, before assuming the duties of
36 office, shall take an oath of office as provided in Chapter 11 of the General Statutes.

37 (g) Ethical Standards. –

- 38 (1) Disclosure statements. – Any person under consideration for appointment to
39 the Commission shall provide both a financial disclosure statement and a
40 potential bias disclosure statement to the Governor. A financial disclosure
41 statement shall include statements of the nominee's financial interests in and
42 related to State fishery resources use, licenses issued by the Division of
43 Marine Fisheries held by the nominee or any business in which the nominee
44 has a financial interest, and uses made by the nominee or by any business in
45 which the nominee has a financial interest of the regulated resources. A
46 potential bias disclosure statement shall include a statement of the nominee's
47 membership or other affiliation with, including offices held, in societies,
48 organizations, or advocacy groups pertaining to the management and use of
49 the State's coastal fishery resources. Disclosure statements shall be treated as
50 public records under Chapter 132 of the General Statutes and shall be updated
51 on an annual basis.

1 (2) Voting/conflict of interest. – A member of the Commission shall not vote on
2 any issue before the Commission that would have a "significant and
3 predictable effect" on the member's financial interest. For purposes of this
4 subdivision, "significant and predictable effect" means there is or may be a
5 close causal link between the decision of the Commission and an expected
6 disproportionate financial benefit to the member that is shared only by a
7 minority of persons within the same industry sector or gear group. A member
8 of the Commission shall also abstain from voting on any petition submitted
9 by an advocacy group of which the member is an officer or sits as a member
10 of the advocacy group's board of directors. A member of the Commission shall
11 not use the member's official position as a member of the Commission to
12 secure any special privilege or exemption of substantial value for any person.
13 No member of the Commission shall, by the member's conduct, create an
14 appearance that any person could improperly influence the member in the
15 performance of the member's official duties.

16 (3) Regular attendance. – It shall be the duty of each member of the Commission
17 to regularly attend meetings of the Commission.

18 (h) Removal. – The Governor may remove, as provided in G.S. 143B-13, any member of
19 the Commission for misfeasance, malfeasance, or nonfeasance.

20 (i) Office May Be Held Concurrently With Others. – The office of member of the Marine
21 Fisheries Commission may be held concurrently with any other elected or appointed office, as
22 authorized by Article VI, Section 9, of the Constitution of North Carolina.

23 (j) Compensation. – Members of the Commission who are State officers or employees
24 shall receive no per diem compensation for serving on the Commission, but shall be reimbursed
25 for their expenses in accordance with G.S. 138-6. Members of the Commission who are full-time
26 salaried public officers or employees other than State officers or employees shall receive no per
27 diem compensation for serving on the Commission, but shall be reimbursed for their expenses in
28 accordance with G.S. 138-6 in the same manner as State officers or employees. All other
29 Commission members shall receive per diem compensation and reimbursement in accordance
30 with the compensation rate established in G.S. 93B-5.

31 (k) Staff. – All clerical and other services required by the Commission shall be supplied
32 by the Fisheries Director and the Department.

33 (l) Legal Services. – The Attorney General shall: (i) act as attorney for the Commission;
34 (ii) at the request of the Commission, initiate actions in the name of the Commission; and (iii)
35 represent the Commission in any appeal or other review of any order of the Commission.

36 (m) ~~Transparency-Commission Communications.~~ – The Commission shall establish
37 official e-mail accounts for all Commission members. These e-mail accounts shall be used for
38 all electronic communications related to the work of the Commission and those communications
39 shall be considered public records under Chapter 132 of the General Statutes. Other than routine
40 communication sent from Division staff to all Commission members, ~~electronic~~ any electronic,
41 oral, or other communications among a majority of the Commission shall be an "official meeting"
42 as defined in Article 33C of Chapter 143 of the General Statutes. Failure to comply with this
43 subsection shall be subject to investigation by the Bipartisan State Board of Elections and Ethics
44 Enforcement as unethical conduct and removal under subsection (h) of this section as
45 misfeasance. Nothing in this subsection is intended to limit or eliminate any privilege existing at
46 common law or under statute.

47 (n) Commission Meeting Agenda. – The Commission shall establish and publish a
48 written agenda for the conduct of each of its quarterly meetings. Once a Commission meeting is
49 convened by the Commission Chair, no Commission member shall move to deliberate or vote on
50 any Commission business or issue not previously noticed on that meeting agenda. Commission
51 members may move at that meeting to deliberate or vote on new Commission business or issues

1 to be taken up for consideration at future quarterly meetings. This subdivision is intended to
2 supplement for the Commission the requirements for public meetings as prescribed in Article
3 33C of Chapter 143 of the General Statutes. Any action for injunctive relief or other remedy for
4 violation of this subdivision shall proceed consistent with Article 33 of Chapter 143 of the
5 General Statutes."

6 **SECTION 2.3.** G.S. 143B-289.57 reads as rewritten:

7 "**§ 143B-289.57. Marine Fisheries Commission Advisory Committees established;**
8 **members; selection; duties.**

9 (a) The Commission shall be assisted in the performance of its duties by ~~four~~three
10 standing advisory committees and ~~four~~two regional advisory committees. Each standing and
11 regional advisory committee shall consist of no more than 11 members. The Chair of the
12 Commission shall designate one member of each advisory committee to serve as Chair of the
13 ~~committee~~committee based on the recommendation of the Division of Marine Fisheries.
14 Members shall serve staggered three-year terms as determined by the Commission. The
15 Commission shall establish other policies and procedures for standing and regional advisory
16 committees that are consistent with those governing the Commission as set out in this Part.

17 (b) The Chair of the Commission shall appoint the following standing advisory
18 committees:

- 19 (1) The Finfish Committee, which shall consider matters concerning finfish.
- 20 (2), (3) Repealed by Session Laws 2012-190, s. 4(a), and Session Laws 2012-200,
21 s. 16(a), effective July 1, 2012.
- 22 (3a) The Shellfish/Crustacean Advisory Committee, which shall consider matters
23 concerning oysters, clams, scallops, other molluscan shellfish, shrimp, and
24 crabs.
- 25 (4) The Habitat and Water Quality Committee, which shall consider matters
26 concerning habitat and water quality that may affect coastal fisheries
27 resources.

28 (c) Each standing and regional advisory committee shall be composed of commercial and
29 recreational fishermen, scientists, and other persons who have expertise in the matters to be
30 considered by the advisory committee to which they are ~~appointed~~appointed and in the regions
31 for which they are appointed. In making appointments to advisory committees, the Chair of the
32 Commission shall ensure that both commercial and recreational fishing interests are fairly
33 represented and shall consider for appointment persons who are recommended by the Division
34 of Marine Fisheries, by groups representing commercial fishing interests, recreational fishing
35 interests, environmental protection and conservation interests, and other groups interested in
36 coastal fisheries management.

37 (d) Each standing and regional advisory committee shall review all matters referred to
38 the committee by the Commission and shall make findings and recommendations on these
39 matters. A standing or regional advisory committee may, on its own motion, make findings and
40 recommendations as to any matter related to its subject area. The Commission, in the
41 performance of its duties, shall consider all ~~findings~~conclusions and recommendations submitted
42 by standing and regional advisory committees. If the Commission rejects a conclusion or
43 recommendation submitted by a standing or regional advisory committee, the Commission shall
44 provide to the committee its reasons, in writing, for rejecting the conclusion or recommendation.

45 (e) The Chair of the Commission shall appoint a Northern Regional Advisory
46 Committee, encompassing areas from the Virginia line south through Hyde and Pamlico Counties
47 and any counties to the west, and a Southern Regional Advisory Committee, encompassing areas
48 from Carteret County south to the South Carolina line and any counties to the west. In making
49 appointments to regional advisory committees, the Chair of the Commission shall ensure that
50 both commercial and recreational fishing interests are fairly represented."

1 **SECTION 2.4.** Notwithstanding the amendments to G.S. 143B-289.54 set out in
2 Section 2.2 of this act, a person who is serving on the Marine Fisheries Commission at the time
3 this act becomes law may continue to serve for their remaining term even if they no longer meet
4 the qualifications of G.S. 143B-289.54, as amended.

5
6 **AMEND ENFORCEMENT OF MARINE FISHERIES LAWS**

7 **SECTION 3.1.** G.S. 113-136 reads as rewritten:

8 "**§ 113-136. Enforcement authority of inspectors and protectors; refusal to obey or allow**
9 **inspection by inspectors and protectors.**

10 (a) Inspectors and protectors are granted the powers of peace officers anywhere in this
11 State, and beyond its boundaries to the extent provided by law, in enforcing all matters within
12 their respective subject-matter jurisdiction as set out in this section.

13 (b) The jurisdiction of inspectors extends to all matters within the jurisdiction of the
14 Department set out in this Subchapter, Part 5D of Article 7 of Chapter 143B of the General
15 Statutes, Article 5 of Chapter 76 of the General Statutes, and Article 2 of Chapter 77 of the
16 General Statutes, and to all other matters within the jurisdiction of the Department which it directs
17 inspectors to enforce. In addition, inspectors have jurisdiction over all offenses involving
18 property of or leased to or managed by the Department in connection with the conservation of
19 marine and estuarine resources.

20 (c) The jurisdiction of protectors extends to all matters within the jurisdiction of the
21 Wildlife Resources Commission, whether set out in this Chapter, Chapter 75A, Chapter 143,
22 Chapter 143B, or elsewhere. The Wildlife Resources Commission is specifically granted
23 jurisdiction over all aspects of:

- 24 (1) Boating and water safety;
25 (2) Hunting and trapping;
26 (3) Fishing, exclusive of fishing under the jurisdiction of the Marine Fisheries
27 Commission; and
28 (4) Activities in woodlands and on inland waters governed by G.S. 106-908 to
29 G.S. 106-910.

30 In addition, protectors have jurisdiction over all offenses involving property of or leased by the
31 Wildlife Resources Commission or occurring on wildlife refuges, game lands, or boating and
32 fishing access areas managed by the Wildlife Resources Commission. The authority of protectors
33 over offenses on public hunting grounds is governed by the jurisdiction granted the Commission
34 in G.S. 113-264(c).

35 (d) Inspectors and protectors are additionally authorized to arrest without warrant under
36 the terms of G.S. 15A-401(b) for felonies, for breaches of the peace, for assaults upon them or in
37 their presence, and for other offenses evincing a flouting of their authority as enforcement
38 officers or constituting a threat to public peace and order which would tend to subvert the
39 authority of the State if ignored. In particular, they are authorized, subject to the direction of the
40 administrative superiors, to arrest for violations of G.S. 14-223, 14-225, 14-269, and 14-277.

41 (d1) In addition to law enforcement authority granted elsewhere, a protector has the
42 authority to enforce criminal laws under the following circumstances:

- 43 (1) When the protector has probable cause to believe that a person committed a
44 criminal offense in his presence and at the time of the violation the protector
45 is engaged in the enforcement of laws otherwise within his jurisdiction; or
46 (2) When the protector is asked to provide temporary assistance by the head of a
47 State or local law enforcement agency or his designee and the request is within
48 the scope of the agency's subject matter jurisdiction.

49 While acting pursuant to this subsection, a protector shall have the same powers invested in
50 law enforcement officers by statute or common law. When acting pursuant to (2) of this
51 subsection a protector shall not be considered an officer, employee, or agent for the state or local

1 law enforcement agency or designee asking for temporary assistance. Nothing in this subsection
2 shall be construed to expand the authority of protectors to initiate or conduct an independent
3 investigation into violations of criminal laws outside the scope of their subject matter or territorial
4 jurisdiction.

5 (e) Inspectors and protectors may serve arrest warrants, search warrants, orders for arrest,
6 criminal summonses, subpoenas, and all other process connected with any cases within their
7 subject-matter jurisdiction. In the exercise of their law enforcement powers, inspectors are
8 subject to provisions relating to police officers in general set out in Chapter 15, Chapter 15A,
9 and elsewhere.

10 (f) Inspectors and protectors are authorized to stop temporarily any persons they
11 reasonably believe to be engaging in activity regulated by their respective agencies to determine
12 whether such activity is being conducted within the requirements of the law, including license
13 requirements. If the person stopped is in a motor vehicle being driven at the time and the inspector
14 or protector in question is also in a motor vehicle, the inspector or protector is required to sound
15 a siren or activate a special light, bell, horn, or exhaust whistle approved for law-enforcement
16 vehicles under the provisions of G.S. 20-125(b) or 20-125(c).

17 (g) Protectors may not temporarily stop or inspect vehicles proceeding along primary
18 highways of the State without clear evidence that someone within the vehicle is or has recently
19 been engaged in an activity regulated by the Wildlife Resources Commission. Inspectors may
20 temporarily stop vehicles, boats, airplanes, and other conveyances upon reasonable grounds to
21 believe that they are transporting seafood products; they are authorized to inspect any seafood
22 products being transported to determine whether they were taken in accordance with law and to
23 require exhibition of any applicable license, receipts, permits, bills of lading, or other
24 identification required to accompany such seafood products.

25 (h), (i) Repealed by Session Laws 1979, c. 830, s. 1.

26 (j) The refusal of any person to stop in obedience to the directions of an inspector or
27 protector acting under the authority of this section is unlawful. A violation of this subsection is a
28 Class 3 misdemeanor and may include a fine of not less than fifty dollars (\$50.00).

29 (k) It is unlawful to refuse to exhibit upon request by any ~~inspector, protector, protector~~
30 or other law enforcement officer any item required to be carried by any law or rule as to which
31 ~~inspectors or protectors~~ have enforcement jurisdiction. The items that must be exhibited include
32 boating safety or other equipment or any license, permit, tax receipt, certificate, or identification.
33 It is unlawful to refuse to allow ~~inspectors, protectors, protectors~~ or other law enforcement
34 officers to inspect weapons or equipment if the officer reasonably believes them to be possessed
35 incident to an activity regulated by any law or rule as to which ~~inspectors and protectors~~ have
36 enforcement jurisdiction and the officer has a reasonable suspicion that a violation has been
37 committed, except that an officer may inspect a shotgun to confirm whether it is plugged or
38 unplugged without a reasonable suspicion that a violation has been committed. It is unlawful to
39 refuse to allow ~~inspectors, protectors, protectors~~ or other law enforcement officers to inspect fish
40 or wildlife for the purpose of ensuring compliance with bag limits and size limits. Except as
41 authorized by G.S. 113-137, nothing in this section gives ~~an inspector, protector, a protector~~ or
42 other law enforcement officer the authority to inspect, in the absence of a person in apparent
43 control of the item to be inspected, any of the following:

44 (1) Weapons.

45 (2) Equipment, except for equipment left unattended in the normal operation of
46 the equipment, including, but not limited to, traps, trot lines, crab pots, and
47 fox pens.

48 (3) Fish.

49 (4) Wildlife.

50 (k1) It is unlawful to refuse to exhibit upon request by any inspector or other law
51 enforcement officer any item required to be carried by any law or rule as to which inspectors

1 have enforcement jurisdiction. The items that must be exhibited include boating safety or other
2 equipment or any license, permit, tax receipt, certificate, or identification. It is unlawful to refuse
3 to allow inspectors or other law enforcement officers to inspect equipment and fish that the
4 officer reasonably believes to be possessed incident to an activity regulated by any law or rule as
5 to which inspectors have enforcement jurisdiction.

6 (l) Nothing in this section authorizes searches within the curtilage of a dwelling or of the
7 living quarters of a vessel in contravention of constitutional prohibitions against unreasonable
8 searches and seizures."
9

10 MISCELLANEOUS AMENDMENTS TO MARINE FISHERIES LAWS

11 SECTION 4.1. G.S. 113-129 reads as rewritten:

12 "§ 113-129. Definitions relating to resources.

13 The following definitions and their cognates apply in the description of the various marine
14 and estuarine and wildlife resources:

15 ...

16 (12c) Non-native species. – All fish not found in the Atlantic Ocean or in coastal
17 fishing waters.

18 ~~(12e)~~(12d) Overfished. – The condition of a fishery that occurs when the spawning
19 stock biomass of the fishery is below the level that is adequate for the
20 recruitment class of a fishery to replace the spawning class of the fishery.

21 ~~(12d)~~(12e) Overfishing. – Fishing that causes a level of mortality that prevents a
22 fishery from producing a sustainable harvest.
23

24"

25 SECTION 4.2. G.S. 113-132 reads as rewritten:

26 "§ 113-132. Jurisdiction of fisheries agencies.

27 (a) The Marine Fisheries Commission has jurisdiction over the conservation of marine
28 and estuarine resources. Except as may be otherwise provided by law, it has jurisdiction over all
29 activities connected with the conservation and regulation of marine and estuarine resources,
30 including the regulation of aquaculture facilities as defined in G.S. 106-758 which cultivate or
31 rear marine and estuarine ~~resources-resources,~~ marine aquatic species, or non-native species.

32 (b) The Wildlife Resources Commission has jurisdiction over the conservation of wildlife
33 resources. Except as may be otherwise provided by law, it has jurisdiction over all activities
34 connected with the conservation and regulation of wildlife resources.

35 (c) Notwithstanding the provisions of this Article, this Subchapter does not give the
36 Marine Fisheries Commission or the Wildlife Resources Commission jurisdiction over matters
37 clearly within the ~~jurisdiction-jurisdiction,~~ including policy matters, vested in the Department of
38 Agriculture and Consumer Services, the Department of Environmental Quality, the North
39 Carolina Pesticide Board, the Commission for Public Health, the Environmental Management
40 Commission, or other division of the Department regulating air or water pollution.

41 (d) To the extent that the grant of jurisdiction to the Marine Fisheries Commission and
42 the Wildlife Resources Commission may overlap, the Marine Fisheries Commission and the
43 Wildlife Resources Commission are granted concurrent jurisdiction. In cases of conflict between
44 actions taken or regulations promulgated by either agency, as respects the activities of the other,
45 pursuant to the dominant purpose of such jurisdiction, the Marine Fisheries Commission and the
46 Wildlife Resources Commission are empowered to make agreements concerning the harmonious
47 settlement of such conflict in the best interests of the conservation of the marine and estuarine
48 and wildlife resources of the State. In the event the Marine Fisheries Commission and the
49 Wildlife Resources Commission cannot agree, the Governor is empowered to resolve the
50 differences.

51 (e) Those coastal fishing waters in which are found a significant number of freshwater
fish, as agreed upon by the Marine Fisheries Commission and the Wildlife Resources

1 Commission, may be denominated joint fishing waters. These waters are deemed coastal fishing
2 waters from the standpoint of laws and regulations administered by the Department and are
3 deemed inland fishing waters from the standpoint of laws and regulations administered by the
4 Wildlife Resources Commission. The Marine Fisheries Commission and the Wildlife Resources
5 Commission may make joint regulations governing the responsibilities of each agency and
6 modifying the applicability of licensing and other regulatory provisions as may be necessary for
7 rational and compatible management of the marine and estuarine and wildlife resources in joint
8 fishing waters.

9 (f) The granting of jurisdiction in this section pertains to the power of agencies to enact
10 regulations and ordinances. Nothing in this section or in G.S. 113-138 is designed to prohibit
11 law-enforcement officers who would otherwise have jurisdiction from making arrests or in any
12 manner enforcing the provisions of this Subchapter."

13 **SECTION 4.3.** G.S. 113-170 reads as rewritten:

14 "**§ 113-170. Exportation and importation of fish and equipment.**

15 The Commission may adopt rules governing the importation and exportation of fish, and
16 equipment that may be used in taking or processing fish, as necessary to enhance the conservation
17 of marine and estuarine resources of the State. These rules may regulate, license, prohibit, or
18 restrict importation into the ~~State~~ State, holding or maintaining in marine aquaculture operations
19 within the State, and exportation from the State of any and all species of fish that are native to
20 coastal fishing waters or non-native species that may thrive if introduced into these waters."

21 **SECTION 4.4.** G.S. 113-170.3(c) reads as rewritten:

22 "(c) The following records collected and compiled or received by the Department shall
23 not be considered public records within the meaning of Chapter 132 of the General Statutes, but
24 shall be confidential and shall be used only for the equitable and efficient administration and
25 enforcement of this Article or for determining conservation policy, and shall not be disclosed
26 except when required by the order of a court of competent jurisdiction: all records, accounts, and
27 reports that licensees are required by the Commission to make, keep, and exhibit pursuant to the
28 provisions of this section, and all records, accounts, and memoranda compiled by the Department
29 from records, accounts, and reports of licensees and from investigations and inspections,
30 containing data and information concerning the business and operations of licensees reflecting
31 their assets, liabilities, inventories, revenues, and profits; the number, capacity, capability, and
32 type of fishing vessels owned and operated; the type and quantity of fishing gear used; the catch
33 of fish or other seafood by species in numbers, size, weight, quality, and value; the areas in which
34 fishing was engaged in; the location of catch; the time of fishing, number of hauls, and the
35 disposition of the fish and other ~~seafood~~ seafood; and confidential federal fishery data and
36 records concerning species significant to the State that are maintained by and received from the
37 National Oceanic and Atmospheric Administration. The Department may compile statistical
38 information in any aggregate or summary form that does not directly or indirectly disclose the
39 identity of any licensee who is a source of the information, and any compilation of statistical
40 information by the Department shall be a public record open to inspection and examination by
41 any person, and may be disseminated to the public by the Department."

42 **SECTION 4.5.(a)** G.S. 113-181 is repealed.

43 **SECTION 4.5.(b)** Article 15 of Chapter 113 of the General Statutes is amended by
44 adding a new section to read:

45 "**§ 113-181.1. Duties and powers of Department.**

46 (a) The Department shall administer and enforce the provisions of this Subchapter
47 pertaining to the conservation and management of marine and estuarine resources and develop
48 and implement Fishery Management Plans and Fishery Management Plan Amendments pursuant
49 to G.S. 113-182.2 and Coastal Habitat Protection Plans pursuant to G.S. 143B-279.8. The
50 Department may enter into reciprocal agreements with other jurisdictions with regard to the
51 conservation of marine and estuarine resources.

1 (b) The Department is directed to make every reasonable effort to carry out the duties
2 imposed in this Subchapter."

3 **SECTION 4.6.** G.S. 113-215 reads as rewritten:

4 "**§ 113-215. Definitions.**

5 In addition to the definitions in G.S. 113-128 and G.S. 113-129, the following definitions
6 shall apply in this Article:

- 7 (1) Marine aquaculture. – The propagation and rearing of marine aquatic species
8 and non-native species in controlled or selected environments, including, but
9 not limited to, ocean ranching, marine hatcheries, and other deep water fish
10 farming operations in the coastal fishing waters of the State and, to the extent
11 not inconsistent with federal law, to the limits of the United States exclusive
12 economic zone, as that term is defined in the Magnuson-Stevens Fishery
13 Conservation and Management Act, 16 U.S.C. § 1801, et seq.
- 14 (2) Marine aquaculture lease. – A lease of the public bottom and superjacent water
15 column granted by the Secretary for marine aquaculture.
- 16 (3) Marine aquatic species. – Any species of finfish, mollusk, crustacean, or other
17 aquatic invertebrate, amphibian, reptile, or aquatic plant, and including, but
18 not limited to, "fish" and "fishes," as defined in G.S. 113-129(7), found
19 exclusively or for part of its life cycle in coastal fishing waters."

20 **SECTION 4.7.** G.S. 113-228 reads as rewritten:

21 "**§ 113-228. Adoption of federal regulations.**

22 To the extent that the Department is granted authority in this Subchapter over subject matter
23 as to which there is concurrent federal or interstate jurisdiction, the Marine Fisheries Commission
24 in its discretion may by reference in its rules adopt relevant provisions of federal ~~laws and~~
25 ~~regulations or interstate laws, regulations, and management measures~~ as State rules. To prevent
26 confusion or conflict of jurisdiction in enforcement, the Marine Fisheries Commission is exempt
27 from any conflicting limitations in G.S. 150B-21.6 so that it may provide for automatic
28 incorporation by reference into its rules of future changes within any particular set of federal laws
29 or regulations relating to some subject clearly within the jurisdiction of the Department."
30

31 SEVERABILITY CLAUSE AND EFFECTIVE DATE

32 **SECTION 5.1.** If any provision of this act or the application thereof to any person
33 or circumstances is held invalid, such invalidity shall not affect other provisions or applications
34 of this act that can be given effect without the invalid provision or application, and, to this end,
35 the provisions of this act are declared to be severable.

36 **SECTION 5.2.** Except as otherwise provided, this act is effective when it becomes
37 law.