

Chapter 113.

Conservation and Development.

SUBCHAPTER I. GENERAL PROVISIONS.

Article 1.

Powers and Duties of Department of Environmental Quality Generally.

§ 113-1. Meaning of terms.

In this Article, unless the context otherwise requires, the expression "Department" means the Department of Environmental Quality; "Secretary" means the Secretary of Environmental Quality. (1925, c. 122, s. 3; 1973, c. 1262, ss. 28, 86; 1977, c. 771, s. 4; 1989, c. 727, s. 218(47); 1997-443, s. 11A.119(a); 2015-241, ss. 14.30(u), (v).)

§ 113-2. Repealed by Session Laws 1973, c. 1262, s. 28.

§ 113-3. Duties of the Department.

(a) It shall be the duty of the Department, by investigation, recommendation and publication, to aid:

- (1) In the promotion of the conservation and development of the natural resources of the State;
- (2) In promoting a more profitable use of lands and forests;
- (3) Repealed by Session Laws 1977, c. 198, s. 15; c. 771, s. 7;
- (4) In coordinating existing scientific investigations and other related agencies in formulating and promoting sound policies of conservation and development; and
- (5) Repealed by Session Laws 1977, c. 771, s. 7.

(b) Repealed by Session Laws 1959, c. 779, s. 3. (1925, c. 122, s. 4; 1957, c. 753, s. 3; c. 1424, s. 1; 1959, c. 779, s. 3; 1977, c. 198, s. 15; c. 771, s. 7.)

§§ 113-4 through 113-7. Repealed by Session Laws 1973, c. 1262, s. 28.

§ 113-8. Powers and duties of the Department.

The Department shall make investigations of the natural resources of the State, and take such measures as it may deem best suited to promote the conservation and development of such resources.

It shall have the protection of lands and water supplies; it shall also have the care of recreational areas now owned or to be acquired by the State, including the lakes referred to in G.S. 146-7.

It shall make such examination, survey and mapping of the geology, mineralogy and topography of the State, including their industrial and economic utilization, as it may consider necessary; make investigations of water supplies and water powers, prepare and maintain a general inventory of the water resources of the State, and take such measures as it may consider necessary to promote their development.

It shall have the duty of enforcing all laws relating to the conservation of marine and estuarine resources.

The Department may take such other measures as it may deem advisable to obtain and make public a more complete knowledge of the State and its resources, and it is authorized to cooperate with other departments and agencies of the State in obtaining and making public such information.

The Department may acquire such real and personal property as may be found desirable and necessary for the performance of the duties and functions of the Department and pay for same out of any funds appropriated for the Department or available unappropriated revenues of the Department, when such acquisition is approved by the Governor and Council of State. The title to any real estate acquired shall be in the name of the State of North Carolina for the use and benefit of the Department. (1925, c. 122, s. 9; 1927, c. 57; 1947, c. 118; 1957, c. 753, s. 4; c. 1424, s. 2; 1965, c. 957, s. 11; 1973, c. 1262, ss. 28, 86; 1977, c. 198, ss. 16, 17; c. 771, s. 4; 1989, c. 727, s. 33; 2011-145, s. 13.25(j); 2015-241, s. 14.30(nn).)

§ 113-8.01. Pollution Prevention Pays Programs.

There is established within the Department a non-regulatory technical assistance program to be known as the Pollution Prevention Pays Program. The purpose of this program is to encourage voluntary waste and pollution reduction efforts through research and by providing information, technical assistance, and matching grants to businesses and industries interested in establishing or enhancing activities to prevent, reduce, or recycle waste. The Pollution Prevention Pays Program shall coordinate its activities with the appropriate regulatory agencies. (1989, c. 168, s. 7; 1993, c. 501, s. 10.)

§ 113-8.1. Repealed by Session Laws 1959, c. 779, s. 3.

§§ 113-9 through 113-13. Repealed by Session Laws 1973, c. 1262, s. 28.

§ 113-14. Recodified as § 143B-435 by Session Laws 1977, c. 198, s. 26.

§ 113-14.1. Promotion of seashore industry and recreation.

- (a) Repealed by Session Laws 1973, c. 1262, s. 28.
- (b) The following powers are hereby granted to the Secretary and may be delegated to the administrative head of an existing or new division of the Department as herein authorized:
 - (1) through (3) Repealed by Session Laws 1977, c. 198, s. 18.
 - (4) Study the development of the seacoast areas and implement policies which will promote the development of the coastal area, with particular emphasis upon the development of the scenic and recreational resources of the seacoast;
 - (5) Advise and confer with various interested individuals, organizations and State, federal and local agencies which are interested in development of the seacoast area and use its facilities and efforts in planning, developing and carrying out overall programs for the development of the area as a whole;
 - (6) Act as liaison between agencies of the State, local government, and agencies of the federal government concerned with development of the seacoast region;
 - (7) Repealed by Session Laws 1973, c. 1262, s. 28;
 - (8) Make such reports to the Governor as he may request;
 - (9) File such recommendations or suggestions as it may deem proper with other agencies of the State, local or federal governments.

Provided, however, that the provisions of this section and G.S. 113-14.2 shall not be construed as affecting the authority of the Environmental Management Commission concerning shore-erosion control or prevention, beach protection, or hurricane protection under G.S. 143-355

or any other provision of law. (1969, c. 1143, ss. 2, 3; 1973, c. 1262, s. 28; 1977, c. 198, s. 18, c. 771, s. 4; 1989, c. 727, s. 34.)

§ 113-14.2. Repealed by Session Laws 1971, c. 882, s. 8.

§ 113-14.3. Publications.

The Department shall publish, from time to time, reports and statements, with illustrations, maps, and other descriptions, which shall adequately set forth the natural and material resources of the State for the purpose of furnishing information to educate the people about the natural and material resources of the State. (1977, c. 771, s. 5; 1989, c. 727, s. 35.)

§ 113-15. Recodified as § 143B-436 by Session Laws 1977, c. 198, s. 26.

§ 113-15.1. Repealed by Session Laws 1969, c. 1145, s. 4.

§ 113-15.2. Recodified as § 143B-437 by Session Laws 1977, c. 198, s. 26.

§ 113-16. Cooperation with agencies of the federal government.

The Department is authorized to arrange for and accept such aid and cooperation from the several United States government bureaus and other sources as may assist in completing topographic surveys and in carrying out the other objects of the Department.

The Department is further authorized and directed to cooperate with the Federal Power Commission in carrying out the rules adopted by that Commission; and to act in behalf of the State in carrying out any rules that may be adopted relating to water powers in this State other than those related to making and regulating rates. The provisions of this section are extended to apply to cooperation with authorized agencies of other states. (1925, c. 122, s. 18; 1929, c. 297, s. 2; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1989, c. 727, s. 36.)

§ 113-17. Agreements, negotiations and conferences with federal government.

The Department is delegated as the State agency to represent North Carolina in any agreements, negotiations, or conferences with authorized agencies of adjoining or other states, or agencies of the federal government, relating to the joint administration or control over the surface or underground waters passing or flowing from one state to another under the provisions of this section. (1929, c. 297, s. 1; 1973, c. 476, s. 128; c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 37.)

§ 113-18. Department authorized to receive funds from Federal Power Commission.

All sums payable to the State of North Carolina by the Treasurer of the United States of America under the provisions of section 17 and other sections of the Federal Water Power Act shall be paid to the account of the Department as the authorized agent of the State for receipt of said payments. Such sums shall be used by the Department in prosecuting investigations for the utilization and development of the water resources of the State. (1929, c. 288; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 38.)

§ 113-19. Cooperation with other State departments.

The Department is authorized to cooperate with the North Carolina Utilities Commission in investigating the waterpowers in the State, and to furnish the Utilities Commission such information as is possible regarding the location of the waterpower sites, developed waterpowers, and such other information as may be desired in regard to waterpower in the State; the Department shall also cooperate as far as possible with the Department of Labor, the State Department of Agriculture and Consumer Services, and other departments and institutions of the State in collecting information in regard to the resources of the State and in preparing the same for publication in such manner as may best advance the welfare and improvement of the State. (1925, c. 122, s. 16; 1927, c. 57, s. 1; 1931, c. 312; 1933, c. 134, s. 8; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1989, c. 727, s. 39; 1997-261, s. 109.)

§ 113-20. Cooperation with counties and municipal corporations.

The Department is authorized to cooperate with the counties of the State in any surveys to ascertain the natural resources of the county; and with the governing bodies of cities and towns, with boards of trade and other like civic organizations, in examining and locating water supplies and in advising and recommending plans for other municipal improvements and enterprises. Such cooperation is to be conducted upon such terms as the Department may direct. (1925, c. 122, s. 17; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1989, c. 727, s. 40.)

§ 113-21. Cooperation of counties with State in making water resource survey.

The board of county commissioners of any county of North Carolina is authorized and empowered, in their discretion, to cooperate with the Department or other association, organization, or corporation in making surveys of any of the natural resources of their county, and to appropriate and pay out of the funds under their control such proportional part of the cost of such survey as they may deem proper and just. (1921, c. 208; 1925, c. 122, s. 4; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 41.)

§ 113-22: Repealed by Session Laws 2011-145, s. 13.25(k), effective July 1, 2011.

§ 113-23: Recodified as G.S. 143B-135.43 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.

§ 113-24. Repealed by Session Laws 1979, c. 830, s. 5.

§ 113-25. Notice to Department before beginning business of manufacturing products from mineral resources of State.

Every person, firm or corporation engaging in the manufacture or production of any product from any natural resources, classified as mineral products, shall before beginning such operation, or if already engaged in such business, within 90 days after March 9, 1927, notify the Department of its intention to begin or continue such business, and also notify said Department of the product or products it intends to produce.

Every person, firm or corporation now engaged or hereafter engaging in the manufacture or production of any product from any natural resources of the State classified as mineral products, shall notify the Department when such person, firm or corporation shall discontinue such manufacture or production.

Any person, firm or corporation failing to comply with the provisions of this section shall be guilty of a Class 3 misdemeanor, and upon conviction shall only be fined not more than twenty-five dollars (\$25.00) and not less than five dollars (\$5.00), in the discretion of the court. (1927, c. 258; 1993, c. 539, s. 828; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 113-26. Repealed by Session Laws 1959, c. 683, s. 6.

§ 113-26.1. Bureau of Mines; mineral museum.

The Governor and the Council of State are hereby authorized, in their discretion and at such times as the development of the mineral resources and the expansion of mining operations in the State justify and make reasonably necessary, to create and establish as a part of the Department a Bureau of Mines, or a mineral museum in cooperation with the National Park Service, to be located in the western part of the State, with a view to rendering such aid and assistance to mining developments in this State as may be helpful in this expanding industry, and to allocate from the Contingency and Emergency Fund such funds as may reasonably be necessary for the establishment and operation of such Bureau of Mines or mineral museum.

The Department may adopt rules governing the operation of a Bureau of Mines or mineral museum established under this section. (1943, c. 612; 1953, c. 1104, ss. 1-3; 1973, c. 1262, ss. 28, 86; 1977, c. 771, s. 4; 1987, c. 827, s. 89; 1989, c. 727, s. 44.)

§ 113-27. Repealed by Session Laws 1959, c. 779, s. 3.

§ 113-28: Repealed by Session Laws 2010-96, s. 12, effective July 20, 2010.

Article 1A.

Special Peace Officers.

§ 113-28.1. Designated employees commissioned special peace officers by Governor.

Upon application by either the Secretary of Natural and Cultural Resources or the Secretary of Environmental Quality, the Governor is hereby authorized and empowered to commission as special peace officers such of the employees of the Departments as the Secretary may designate for the purpose of enforcing the laws and rules enacted or adopted for the protection, preservation and government of State parks, lakes, reservations and other lands or waters under the control or supervision of the respective Departments. (1947, c. 577; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1987, c. 783, s. 5; 1989, c. 727, s. 46; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(oo).)

§ 113-28.2. Powers of arrest.

Any employee of either the Department of Natural and Cultural Resources or the Department of Environmental Quality commissioned as a special peace officer shall have the right to arrest with warrant any person violating any law or rule on or relating to the State parks, lakes, reservations and other lands or waters under the control or supervision of the employee's respective Department, and shall have the power to pursue and arrest without warrant any person violating in his presence any law or rule on or relating to said parks, lakes, reservations and other lands or waters under the control or supervision of the employee's respective Department. (1947, c. 577; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 47; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(pp).)

§ 113-28.2A. Cooperation between law enforcement agencies.

Special peace officers employed by either the Department of Natural and Cultural Resources or the Department of Environmental Quality are officers of a "law enforcement agency" for purposes of G.S. 160A-288, and each Department shall have the same authority as a city or county governing body to approve cooperation between law enforcement agencies under that section. (2002-111, s. 1; 2015-241, s. 14.30(qq).)

§ 113-28.3: Repealed by Session Laws 1989, c. 485, s. 1.

§ 113-28.4. Oaths required.

Before any employee of either the Department of Natural and Cultural Resources or the Department of Environmental Quality commissioned as a special peace officer shall exercise any power of arrest under this Article, the employee shall take the oaths required of public officers before an officer authorized to administer oaths. (1947, c. 577; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 218(48); 1997-443, s. 11A.119(a); 2015-241, s. 14.30(rr).)

Article 1B.

Aviation.

§§ 113-28.5 through 113-28.12. Recodified as §§ 63-65 to 63-72 by Session Laws 1979, c. 148, s. 5.

Article 1C.

Commission on International Cooperation.

§§ 113-28.13 through 113-28.20: Repealed by Session Laws 1973, c. 1262, s. 86.

Article 1D.

Community Action Partnership Act.

§§ 113-28.21 through 113-28.26: Recodified as §§ 108B-21 through 108B-26 by Session Laws 1989 (Reg. Sess., 1990), c. 1004, s. 34 (c).

SUBCHAPTER II. STATE PARKS.

Article 2.

Acquisition and Control of State Parks.

§ 113-29: Recodified as G.S. 143B-135.10 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.

§ 113-29.1: Repealed by Session Laws 2011-145, s. 13.25(n), effective July 1, 2011.

§ 113-30: Repealed by Session Laws 2011-145, s. 13.25(n), effective July 1, 2011.

§ 113-31: Repealed by Session Laws 2011-145, s. 13.25(n), effective July 1, 2011.

§ 113-32: Repealed by Session Laws 2011-145, s. 13.25(n), effective July 1, 2011.

- § 113-33: Repealed by Session Laws 2011-145, s. 13.25(n), effective July 1, 2011.**
- § 113-34: Recodified as G.S. 143B-135.12 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.**
- § 113-34.1: Recodified as G.S. 143B-135.14 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.**
- § 113-35: Recodified as G.S. 143B-135.16 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.**
- § 113-35.1: Repealed by Session Laws 2009-484, s. 5, effective August 26, 2009.**
- § 113-36: Repealed by Session Laws 2011-145, s. 13.25(n), effective July 1, 2011.**
- § 113-37: Recodified as G.S. 143B-135.18 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.**
- § 113-38: Repealed by Session Laws 2011-145, s. 13.25(n), effective July 1, 2011.**
- § 113-39: Recodified as G.S. 143B-135.20 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.**
- § 113-40: Recodified as G.S. 143B-135.22 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.**
- § 113-41: Recodified as G.S. 143B-135.24 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.**
- § 113-42: Recodified as G.S. 143B-135.26 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.**
- § 113-43: Recodified as G.S. 143B-135.28 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.**
- § 113-44: Recodified as G.S. 143B-135.30 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.**

Article 2A.

Forestry Advisory Committee.

- §§ 113-44.1 through 113-44.2. Repealed by Session Laws 1973, c. 1262, s. 28.**

Article 2B.

Forestry Study Act.

§§ 113-44.3 through 113-44.6: Repealed by Session Laws 1995 (Reg. Sess., 1996), c. 653, s. 4.

Article 2C.

State Parks Act.

§ 113-44.7: Recodified as G.S. 143B-135.40 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.

§ 113-44.8: Recodified as G.S. 143B-135.42 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.

§ 113-44.9: Recodified as G.S. 143B-135.44 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.

§ 113-44.10: Recodified as G.S. 143B-135.46 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.

§ 113-44.11: Recodified as G.S. 143B-135.48 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.

§ 113-44.12: Recodified as G.S. 143B-135.50 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.

§ 113-44.13: Recodified as G.S. 143B-135.52 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.

§ 113-44.14: Recodified as G.S. 143B-135.54 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.

§ 113-44.15: Recodified as G.S. 143B-135.56 by Session Laws 2015-241, s. 14.30(e), effective July 1, 2015.

Article 3.

Private Lands Designated as State Forests.

§§ 113-45 through 113-50: Repealed by Session Laws 1975, c. 253.

Article 4.

Protection and Development of Forests; Fire Control.

§§ 113-51 through 113-60.3: Recodified as Article 75 of Chapter 106, G.S. 106-895 through G.S. 106-910, by Session Laws 2011-145, s. 13.25(p), effective July 1, 2011.

Article 4A.

Protection of Forest Against Insect Infestation and Disease.

§§ 113-60.4 through 113-60.10: Recodified as Article 76 of Chapter 106, G.S. 106-920 through G.S. 106-926, by Session Laws 2011-145, s. 13.25(r), effective July 1, 2011.

Article 4B.

Southeastern Interstate Forest Fire Protection Compact.

§§ 113-60.11 through 113-60.15: Recodified as Article 77 of Chapter 106, G.S. 106-930 through 106-934, by Session Laws 2011-145, s. 13.25(t), effective July 1, 2011.

§ 113-60.16: Reserved for future codification purposes.

§ 113-60.17: Reserved for future codification purposes.

§ 113-60.18: Reserved for future codification purposes.

§ 113-60.19: Reserved for future codification purposes.

§ 113-60.20: Reserved for future codification purposes.

Article 4C.

Regulation of Open Fires.

§§ 113-60.21 through 113-60.31: Recodified as Article 78 of Chapter 106, G.S. 106-940 through G.S. 106-950, by Session Laws 2011-145, s. 13.25(w), effective July 1, 2011.

Article 4D.

Fire Fighters on Standby Duty.

§§ 113-60.32, 113-60.33: Recodified as Article 79 of Chapter 106, G.S. 106-955 and G.S. 106-956, by Session Laws 2011-145, s. 13.25(y), effective July 1, 2011.

§§ 113-60.34 through 113-60.39. Reserved for future codification purposes.

Article 4E.

North Carolina Prescribed Burning Act.

§§ 113-60.40 through 113-60.45: Recodified as Article 80 of Chapter 106, G.S. 106-965 through G.S. 106-970, by Session Laws 2011-145, s. 13.25(aa), effective July 1, 2011.

Article 5.

Corporations for Protection and Development of Forests.

§§ 113-61 through 113-77: Recodified as Article 81 of Chapter 106, G.S. 106-980 through G.S. 106-996, by Session Laws 2011-145, s. 13.25(cc), effective July 1, 2011.

§ 113-77.1: Reserved for future codification purposes.

§ 113-77.2: Reserved for future codification purposes.

§ 113-77.3: Reserved for future codification purposes.

§ 113-77.4: Reserved for future codification purposes.

§ 113-77.5: Reserved for future codification purposes.

Article 5A.

Natural Heritage Trust Program.

§§ 113-77.6 through 113-77.9: Repealed by Session Laws 2013-360, s. 14.3(b), effective August 1, 2013.

Article 6.

Fishing Generally.

§ 113-78: Repealed by Session Laws 1979, c. 830, s. 1.

§§ 113-79 through 113-81: Repealed by Session Laws 1947, c. 422, ss. 1, 9.

Article 6A.

Forestry Services and Advice for Owners and Operators of Forestland.

§§ 113-81.1 through 113-81.3: Recodified as Article 82 of Chapter 106, G.S. 106-1001 through G.S. 106-1003, by Session Laws 2011-145, s. 13.25(ee), effective July 1, 2011.

SUBCHAPTER IIA. DISTRIBUTION AND SALE OF HUNTING, FISHING AND TRAPPING LICENSES.

Article 6B.

License Agents.

§§ 113-81.4 through 113-81.13: Repealed by Session Laws 1979, c. 830, s. 1.

SUBCHAPTER III. GAME LAWS.

Article 7.

North Carolina Game Law of 1935.

§§ 113-82 through 113-99: Repealed by Session Laws 1979, c. 830, s. 1.

§ 113-99.1. Recodified as § 113-270.2A.

§§ 113-100 through 113-109. Repealed by Session Laws 1979, c. 830, s. 1.

§§ 113-109.1 through 113-109.5. Reserved for future codification purposes.

Article 7A.

Safe Distances for Hunting Migratory Wild Waterfowl.

§§ 113-109.6 through 113-109.8. Repealed by Session Laws 1979, c. 830, s. 1.

Article 8.

Fox-Hunting Regulations.

§ 113-110. Repealed by Session Laws 1945, c. 217.

§§ 113-110.1 through 113-112. Repealed by Session Laws 1979, c. 830, s. 1.

Article 9.

Federal Regulations on Federal Lands.

§§ 113-113 through 113-113.5: Repealed by Session Laws 1979, c. 830, s. 1.

Article 9A.

Regulation of Trapping.

§§ 113-113.6 through 113-113.19: Repealed by Session Laws 1979, c. 830, s. 1.

Article 9B.

Regulation of Beaver Taking.

§§ 113-113.20 through 113-113.23. Repealed by Session Laws 1979, c. 830, s. 1.

Article 10.

Regulation of Fur Dealers; Licenses.

§§ 113-114 through 113-120. Repealed by Session Laws 1979, c. 830, s. 1.

Article 10A.

Trespassing upon "Posted" Property to Hunt, Fish or Trap.

§§ 113-120.1 through 113-120.4. Transferred to §§ 14-159.6 to 14-159.9 by Session Laws 1979, c. 830, s. 11.

Article 10B.

Liability of Landowners to Authorized Users.

§§ 113-120.5 through 113-120.7. Repealed by Session Laws 1980, c. 830, s. 1.

Article 11.

Miscellaneous Provisions.

§§ 113-121 through 113-126.1. Repealed by Session Laws 1979, c. 830, s. 1.

§ 113-126.2: Not set out.

SUBCHAPTER IV. CONSERVATION OF MARINE AND ESTUARINE AND WILDLIFE RESOURCES.

Article 12.

General Definitions.

§ 113-127. Application of Article.

Unless the context clearly requires otherwise, the definitions in this Article apply throughout this Subchapter. (1965, c. 957, s. 2.)

§ 113-128. Definitions relating to agencies and their powers.

The following definitions and their cognates apply to powers and administration of agencies charged with the conservation of marine and estuarine and wildlife resources:

- (1), (2) Repealed by Session Laws 1979, c. 830, s. 1.
- (2a) Contracted licensing system vendor. – An entity that the Wildlife Resources Commission contracts with to build and maintain an enterprise system to support business functions of the Commission. These functions shall include the processing of vessel transactions the Commission is authorized to conduct by Chapter 75A of the General Statutes and licenses, permits, or applications the Commission is authorized to issue under this Chapter.
- (3) Department. – The Department of Environmental Quality.
- (4) Executive Director. – Executive Director, North Carolina Wildlife Resources Commission.
- (4a) Fisheries Director. – Director, North Carolina Division of Marine Fisheries of the Department of Environmental Quality who shall be qualified for the office by education or experience.
- (5) Inspector. – Marine fisheries inspector.
- (5a) Marine Fisheries Commission. – The Marine Fisheries Commission of the Department as established by Part 5D of Article 7 of Chapter 143B of the General Statutes.
- (5b) Marine Fisheries Inspector. – An employee of the Department, other than a wildlife protector, sworn in as an officer and assigned duties which include exercise of law enforcement powers under this Subchapter. All references in statutes, regulations, contracts, and other legal and official documents to commercial fisheries inspectors and to commercial and sports fisheries inspectors apply to marine fisheries inspectors.
- (6) Notice; Notify. – Where it is required that notice be given an agency of a situation within a given number of days, this places the burden on the person giving notice to make sure that the information is received in writing by a responsible member of the agency within the time limit.

- (7) Protector. – Wildlife protector.
- (8) Secretary. – Secretary of Environmental Quality.
- (9) Wildlife Protector. – An employee of the North Carolina Wildlife Resources Commission sworn in as an officer and assigned to duties which include exercise of law-enforcement powers.
- (10) Wildlife Resources Commission. – The North Carolina Wildlife Resources Commission as established by Article 24 of Chapter 143 of the General Statutes and Part 3 of Article 7 of Chapter 143B of the General Statutes. (1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1977, c. 512, s. 5; c. 771, s. 4; 1979, c. 388, s. 1; c. 830, s. 1; 1987, c. 641, s. 4; 1989, c. 727, s. 218(57); 1997-443, s. 11A.119(a); 1998-225, s. 1.1; 2015-241, s. 14.30(u), (v); 2022-74, s. 15.3(a).)

§ 113-129. Definitions relating to resources.

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

- (1) Repealed by Session Laws 1979, c. 830, s. 1.
- (1a) Animals. – Wild animals, except when the context clearly indicates a contrary interpretation.
- (1b) Big Game. – Bear, wild turkey, and white-tailed deer.
- (1c) Birds. – Wild birds, except when the context clearly indicates a contrary interpretation.
- (1d) Boating and Fishing Access Area. – An area providing access to public waters and which is owned, allocated to, leased, controlled, or managed by the Wildlife Resources Commission.
- (1e) Bushel. – A dry measure containing 2,150.42 cubic inches.
- (1f) Cervid or Cervidae. – All animals in the Family Cervidae (elk and deer).
- (2) Coastal Fisheries. – Any and every aspect of cultivating, taking, possessing, transporting, processing, selling, utilizing, and disposing of fish taken in coastal fishing waters, whatever the manner or purpose of taking, except for the regulation of inland game fish in coastal fishing waters which is vested in the Wildlife Resources Commission; and all such dealings with fish, wherever taken or found, by a person primarily concerned with fish taken in coastal fishing waters so as to be placed under the administrative supervision of the Department. Provided, that the Department is given no authority over the taking of fish in inland fishing waters. Except as provisions in this Subchapter or in regulations of the Marine Fisheries Commission authorized under this Subchapter may make such reference inapplicable, all references in statutes, regulations, contracts, and other legal or official documents to commercial fisheries apply to coastal fisheries.
- (3) Coastal Fishing. – All fishing in coastal fishing waters. Except as provisions in this Subchapter or in regulations of the Marine Fisheries Commission authorized under this Subchapter may make such references inapplicable, all references in statutes, regulations, contracts, and other legal or official documents to commercial fishing apply to coastal fishing.
- (4) Coastal Fishing Waters. – The Atlantic Ocean; the various coastal sounds; and estuarine waters up to the dividing line between coastal fishing waters and

inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission. Except as provisions in this Subchapter or changes in the agreement between the Marine Fisheries Commission and the Wildlife Resources Commission may make such reference inapplicable, all references in statutes, regulations, contracts, and other legal or official documents to commercial fishing waters apply to coastal fishing waters.

- (5) Crustaceans. – Crustacea, specifically including crabs, lobster, and shrimp.
- (5a) Deer. – White-tailed deer (*Odocoileus virginianus*), except when otherwise specified in this Chapter.
- (5b) Domestically Raised Waterfowl and Game Birds. – Propagated mallard ducks in accordance with 50 C.F.R. § 21.13, bobwhite quail, ringed neck pheasants, chukar partridges, and Hungarian partridges.
- (5c) Farmed Cervid. – Any member of the Cervidae family, other than white-tailed deer, elk, mule deer, or black-tailed deer, that is bought and sold for commercial purposes.
- (5d) Feral Swine. – Free-ranging mammals of the species *Sus scrofa*.
- (6) Fisheries Resources. – Marine and estuarine resources and such wildlife resources as relate to fish.
- (7) Fish; Fishes. – All finfish; all shellfish; and all crustaceans.
- (7a) Fur-bearing Animals. – Beaver, mink, muskrat, nutria, otter, skunk, and weasel; bobcat, opossum, and raccoon when lawfully taken with traps.
- (7b) Game. – Game animals and game birds.
- (7c) Game Animals. – Bear, fox, rabbit, squirrel, white-tailed deer, and, except when trapped in accordance with provisions relating to fur-bearing animals, bobcat, opossum, and raccoon.
- (7d) Game Birds. – Migratory game birds and upland game birds.
- (8) Game Fish. – Inland game fish and such other game fish in coastal fishing waters as may be regulated by the Department.
- (8a) Game Lands. – Lands owned, allocated to, leased, controlled, or cooperatively managed by the Wildlife Resources Commission.
- (9) Inland Fishing Waters. – All inland waters except private ponds; and all waters connecting with or tributary to coastal sounds or the ocean extending inland or upstream from:
 - a. The dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission; or
 - b. North Carolina's boundary with another state.
- (10) Inland Game Fish. – Those species of freshwater fish, wherever found, and migratory saltwater fish, when found in inland fishing waters, as to which there is an important element of sport in taking and which are denominated as game fish in the regulations of the Wildlife Resources Commission. No species of fish of commercial importance not classified as a game fish in commercial fishing waters as of January 1, 1965, may be classified as an inland game fish in coastal fishing waters without the concurrence of the Marine Fisheries Commission.
- (10a) Joint Fishing Waters. – 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 Commission in accordance with G.S. 113-132(e).

- (11) Marine and Estuarine Resources. – All fish, except inland game fish, found in the Atlantic Ocean and in coastal fishing waters; all fisheries based upon such fish; all uncultivated or undomesticated plant and animal life, other than wildlife resources, inhabiting or dependent upon coastal fishing waters; and the entire ecology supporting such fish, fisheries, and plant and animal life.
- (11a) Migratory Birds. – All birds, whether or not raised in captivity, included in the terms of conventions between the United States and any foreign country for the protection of migratory birds and the Migratory Bird Treaty Act, as defined and listed in Part 10 of Title 50 of the Code of Federal Regulations.
- (11b) Migratory Game Birds. – Those migratory birds for which open seasons are prescribed by the United States Department of the Interior and belonging to the following families:
 - a. Anatidae (wild ducks, geese, brant, and swans);
 - b. Columbidae (wild doves and pigeons);
 - c. Gruidae (little brown cranes);
 - d. Rallidae (rails, coots, and gallinules); and
 - e. Scolopacidae (woodcock and snipe).The Wildlife Resources Commission is authorized to modify this definition from time to time by regulations only as necessary to keep it in conformity with governing federal laws and regulations pertaining to migratory game birds.
- (11c) Migratory Waterfowl; Waterfowl. – Those migratory birds for which open seasons are prescribed by the United States Department of the Interior and belonging to the Family Anatidae (wild ducks, geese, brant, and swans).
- (11d) Mountain Heritage Trout Waters. – Those waters that run through or are adjacent to a city that has been designated by the Wildlife Resources Commission as a Mountain Heritage Trout City pursuant to G.S. 113-273(e).
- (11e) Nongame Animals. – All wild animals except game and fur-bearing animals.
- (11f) Nongame Birds. – All wild birds except game birds.
- (12) Nongame Fish. – All fish found in inland fishing waters other than inland game fish.
- (12a) Repealed by Session Laws 2004-160, s. 1, effective August 2, 2004.
- (12b) Repealed by Session Laws 2004-160, s. 1, effective August 2, 2004.
- (12c) Overfished. – The condition of a fishery that occurs when the spawning stock biomass of the fishery is below the level that is adequate for the recruitment class of a fishery to replace the spawning class of the fishery.
- (12d) Overfishing. – Fishing that causes a level of mortality that prevents a fishery from producing a sustainable harvest.
- (13) Private Pond. – A body of water arising within and lying wholly upon a single tract of privately owned land, from which fish cannot escape and into which fish cannot enter from public fishing waters at any time, except that all publicly owned ponds and lakes are classified as public fishing waters. In addition, the private owners of abutting tracts of land on which a pond not exceeding 10 acres is or has been established may by written agreement cooperate to maintain that pond as a private pond if it otherwise meets the requirements of this definition.

- If a copy of the agreement has been filed with the Wildlife Resources Commission and the pond in fact meets the requirements of this definition, it attains the status of private pond either 60 days after the agreement has been filed or upon the Commission's approving it as private, whichever occurs first.
- (13a) Public Fishing Waters; Public Waters. – Coastal fishing waters, inland fishing waters, or both.
 - (13b) Public Hunting Grounds. – Privately owned lands open to the public for hunting under the terms of a cooperative agreement between the owner and the Wildlife Resources Commission.
 - (13c) Public Mountain Trout Waters. – Those waters designated by the Wildlife Resources Commission that are managed and regulated to sustain a mountain trout fishery.
 - (13d) Raptor. – A migratory bird of prey authorized under federal law and regulations for the taking of quarry by falconry.
 - (14) Shellfish. – Mollusca, specifically including oysters, clams, mussels, and scallops.
 - (14a) Sustainable harvest. – The amount of fish that can be taken from a fishery on a continuing basis without reducing the stock biomass of the fishery or causing the fishery to become overfished.
 - (14b) Upland Game Birds. – Grouse, pheasant, quail, and wild turkey.
 - (15) Wild Animals. – Game animals; fur-bearing animals; feral swine; and all other wild mammals except marine mammals found in coastal fishing waters. In addition, this definition includes members of the following groups which are on the federal list of endangered or threatened species: wild amphibians, wild reptiles except sea turtles inhabiting and depending upon coastal fishing waters, and wild invertebrates except invertebrates declared to be pests under the Structural Pest Control Act of North Carolina of 1955 or the North Carolina Pesticide Law of 1971. Nothing in this definition is intended to abrogate G.S. 113-132(c), confer jurisdiction upon the Wildlife Resources Commission as to any subject exclusively regulated by any other agency, or to authorize the Wildlife Resources Commission by its regulations to supersede valid provision of law or regulation administered by any other agency.
 - (15a) Wild Birds. – Migratory game birds; upland game birds; and all undomesticated feathered vertebrates. The Wildlife Resources Commission may by regulation list specific birds or classes of birds excluded from the definition of wild birds based upon the need for protection or regulation in the interests of conservation of wildlife resources.
 - (15b) Repealed by Session Laws 2011-369, s. 2, effective October 1, 2011.
 - (16) Wildlife. – Wild animals; wild birds; all fish found in inland fishing waters; and inland game fish. Unless the context clearly requires otherwise, the definitions of wildlife, wildlife resources, wild animals, wild birds, fish, and the like are deemed to include species normally wild, or indistinguishable from wild species, which are raised or kept in captivity. Nothing in this definition is intended to abrogate the exclusive authority given the Department of Agriculture and Consumer Services to regulate the production and sale of pen-raised quail for food purposes.

- (16a) Wildlife Refuge. – An area of land or waters owned, leased, controlled, or cooperatively managed by the Wildlife Resources Commission which is closed to the taking of some or all species of wildlife.
- (17) Wildlife Resources. – All wild birds; all wild mammals other than marine mammals found in coastal fishing waters; all fish found in inland fishing waters, including migratory saltwater fish; all inland game fish; all uncultivated or undomesticated plant and animal life inhabiting or depending upon inland fishing waters; waterfowl food plants wherever found, except that to the extent such plants in coastal fishing waters affect the conservation of marine and estuarine resources the Department is given concurrent jurisdiction as to such plants; all undomesticated terrestrial creatures; and the entire ecology supporting such birds, mammals, fish, plant and animal life, and creatures.
- (18) Wildlife Resources Commission Property. – All lands, game lands, wildlife refuges, artificial constructions in boating and fishing access areas, and all other property owned, allocated to, leased, controlled, or cooperatively managed and designated for public use by the Wildlife Resources Commission. (1965, c. 957, s. 2; 1973, c. 1262, ss. 18, 28; 1977, c. 771, s. 4; 1979, c. 830, s. 1; 1979, 2nd Sess., c. 1285; 1987, c. 641, ss. 5, 6; 1991, c. 317, ss. 2, 3; c. 761, ss. 38, 39; 1993, c. 515, s. 6; 1997-142, ss. 2, 3; 1997-261, s. 80; 1997-400, s. 3.5; 1999-339, ss. 1-3; 2003-344, ss. 1-4; 2004-160, ss. 1, 2; 2009-89, s. 2; 2011-369, s. 2; 2013-413, s. 37(a); 2019-204, s. 2; 2022-65, s. 6.)

§ 113-130. Definitions relating to activities of public.

The following definitions and their cognates apply to activities of the public in regard to marine and estuarine and wildlife resources:

- (1) Repealed by Session Laws 1979, c. 830, s. 1.
- (1a) Falconry. – The sport of taking quarry by means of a trained raptor.
- (1b) Individual. – A human being.
- (1c) Landholder. – Any individual, resident or nonresident, owning land in this State or, when he is the one principally engaged in cultivating the land, leasing land in this State for agricultural purposes.
- (2) Owner; Ownership. – As for personal property, refers to persons having beneficial ownership and not to those holding legal title for security; as for real property, refers to persons having the present right of control, possession, and enjoyment, whether as life tenant, fee holder, beneficiary of a trust, or otherwise. Provided, that this definition does not include lessees of property except where the lease arrangement is a security device to facilitate what is in substance a sale of the property to the lessee.
- (3) Person. – Any individual; or any partnership, firm, association, corporation, or other group of individuals capable of suing or being sued as an entity.
- (4) Resident. – In the case of:
 - a. Individuals. – One who at the time in question has resided in North Carolina for the preceding six months or has been domiciled in North Carolina for the preceding 60 days. When domicile in the State for a period of 60 days up to six months is the basis for establishing residence, the individual must sign a certificate on a form supplied by the

- Department or the Wildlife Resources Commission, as the case may be, stating the necessary facts and the intent to establish domicile here.
- b. Corporations. – A corporation which is chartered under the laws of North Carolina and has its principal office within the State.
 - c. Partnerships. – A partnership in which all partners are residents of North Carolina and which has its principal office in the State.
 - d. Other Associations and Groups Fitting the Definition of Person. – An association or group principally composed of individual residents of North Carolina, with its principal office, if any, in the State, and organized for a purpose that contemplates more involvement or contact with this State than any other state.
 - e. Military Personnel and Their Dependents. – A member of the Armed Forces of the United States stationed at a military facility in North Carolina, the member's spouse, and any dependent under 18 years of age residing with the member are deemed residents of the State, of the county in which they live, and also, if different, of any county in which the military facility is located. A member of the Armed Forces of the United States on active duty outside the State of North Carolina shall be deemed an individual resident of the State for purposes of all the following licenses:
 1. Coastal Recreational Fishing Licenses issued pursuant to G.S. 113-174.2(c)(1) and (c)(4).
 2. Combination Hunting and Inland Fishing Licenses issued pursuant to G.S. 113-270.1C(b)(1).
 3. Sportsman Licenses issued pursuant to G.S. 113-270.1D(a).
 4. Hunting Licenses issued pursuant to G.S. 113-270.2(c)(1) and (c)(5).
 5. Special Activity Licenses issued pursuant to G.S. 113-270.3(b)(1).
 6. Trapping Licenses issued pursuant to G.S. 113-270.5(b)(1).
 7. Hook-and-Line Licenses issued pursuant to G.S. 113-271(d)(1), (d)(2), and (d)(6)a.
 8. Unified Hunting and Fishing Licenses issued pursuant to G.S. 113-351(c)(1) and (c)(2).
 - f. Students. – Nonresident students attending a university, college, or community college in the State.
- (4a) To Buy; Purchase. – Includes a purchase or exchange of property, or an offer or attempt to purchase or exchange, for money or any other valuable consideration.
 - (5) To Fish. – To take fish.
 - (5a) To Hunt. – To take wild animals or wild birds.
 - (6) To Sell; Sale. – Includes a sale or exchange of property, or an offer or attempt to sell or exchange – for money or any other valuable consideration.
 - (7) To Take. – All operations during, immediately preparatory, and immediately subsequent to an attempt, whether successful or not, to capture, kill, pursue,

hunt, or otherwise harm or reduce to possession any fisheries resources or wildlife resources.

- (7a) To Trap. – To take wild animals or wild birds by trapping.
- (8) Vessel. – Every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water. (1965, c. 957, s. 2; 1971, c. 705, s. 3; 1973, c. 1262, s. 18; 1979, c. 830, s. 1; 2005-455, s. 1.21; 2011-183, s. 76; 2013-191, s. 1.)

Article 13.

Jurisdiction of Conservation Agencies.

§ 113-131. Resources belong to public; stewardship of conservation agencies; grant and delegation of powers; injunctive relief.

(a) The marine and estuarine and wildlife resources of the State belong to the people of the State as a whole. The Department and the Wildlife Resources Commission are charged with stewardship of these resources.

(b) The following powers are hereby granted to the Department and the Wildlife Resources Commission and may be delegated to the Fisheries Director and the Executive Director:

- (1) Comment on and object to permit applications submitted to State agencies which may affect the public trust resources in the land and water areas subject to their respective management duties so as to conserve and protect the public trust rights in such land and water areas;
- (2) Investigate alleged encroachments upon, usurpations of, or other actions in violation of the public trust rights of the people of the State; and
- (3) Initiate contested case proceedings under Chapter 150B for review of permit decisions by State agencies which will adversely affect the public trust rights of the people of the State or initiate civil actions to remove or restrain any unlawful or unauthorized encroachment upon, usurpation of, or any other violation of the public trust rights of the people of the State or legal rights of access to such public trust areas.

(c) Whenever there exists reasonable cause to believe that any person or other legal entity has unlawfully encroached upon, usurped, or otherwise violated the public trust rights of the people of the State or legal rights of access to such public trust areas, a civil action may be instituted by the responsible agency for injunctive relief to restrain the violation and for a mandatory preliminary injunction to restore the resources to an undisturbed condition. The action shall be brought in the superior court of the county in which the violation occurred. The institution of an action for injunctive relief under this section shall not relieve any party to such proceeding from any civil or criminal penalty otherwise prescribed for the violation.

(d) The Attorney General shall act as the attorney for the agencies and shall initiate actions in the name of and at the request of the Department or the Wildlife Resources Commission.

(e) In this section, the term "public trust resources" means land and water areas, both public and private, subject to public trust rights as that term is defined in G.S. 1-45.1.

(f) Notwithstanding the provisions of this section, a county or city may adopt and enforce ordinances as provided in G.S. 153A-145.3 or G.S. 160A-205, respectively. (1965, c. 957, s. 2; 1973, c. 1262, s. 18; 1987, c. 641, s. 14; 2013-384, s. 4(b); 2015-70, s. 2.)

§ 113-132. Jurisdiction of fisheries agencies.

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

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

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

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

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

(f) The granting of jurisdiction in this section pertains to the power of agencies to enact regulations and ordinances. Nothing in this section or in G.S. 113-138 is designed to prohibit law-enforcement officers who would otherwise have jurisdiction from making arrests or in any manner enforcing the provisions of this Subchapter. (1965, c. 957, s. 2; 1973, c. 476, s. 128; c. 1262, ss. 18, 28, 38; 1977, c. 771, s. 4; 1979, c. 830, s. 1; 1987, c. 641, s. 5; 1989, c. 281, s. 3; 1997-261, s. 109; 2007-182, s. 2.)

§ 113-133. Abolition of local coastal fishing laws.

The enjoyment of the marine and estuarine resources of the State belongs to the people of the State as a whole and is not properly the subject of local regulation. As the Department is charged with administering the governing statutes and adopting rules in a manner to reconcile as equitably as may be the various competing interests of the people as regards these resources, considering the interests of those whose livelihood depends upon full and wise use of renewable and nonrenewable resources and also the interests of the many whose approach is recreational, all special, local, and private acts and ordinances regulating the conservation of marine and estuarine resources are

repealed. Nothing in this section is intended to invalidate local legislation or local ordinances which exercise valid powers over subjects other than the conservation of marine and estuarine resources, even though an incidental effect may consist of an overlapping or conflict of jurisdiction as to some particular provision not essential to the conservation objectives set out in this Subchapter. (1965, c. 957, s. 2; 1987, c. 827, s. 96.)

§ 113-133.1. Limitations upon local regulation of wildlife resources; certain local acts retained.

(a) The enjoyment of the wildlife resources of the State belongs to all of the people of the State.

(b) The Wildlife Resources Commission is charged with administering the governing statutes in a manner to serve as equitably as may be the various competing interests of the people regarding wildlife resources, considering the interests of those whose livelihood depends upon full and wise use of renewable resources and the interests of the many whose approach is recreational. Thus, except as provided in subsection (e), all special, local, and private acts and ordinances enacted prior to the ratification date of the act creating this section regulating the conservation of wildlife resources are repealed. Nothing in this section is intended to invalidate local legislation or local ordinances which exercise valid powers over subjects other than the conservation of wildlife resources, even though an incidental effect may consist of an overlapping or conflict of jurisdiction as to some particular provision not essential to the conservation objectives set out in this Subchapter. In particular, this section does not repeal local acts which restrict hunting primarily for the purpose of protecting travelers on the highway, landowners, or other persons who may be endangered or affected by hunters' weapons or ammunition or whose property may be damaged.

(c) This Subchapter is intended to express State policy relating to the conservation of wildlife resources. Nothing in this section is intended to repeal or prevent the enactment of any city or county ordinance otherwise validly authorized which has only a minor and incidental impact on the conservation of marine and estuarine and wildlife resources. This section does not repeal G.S. 153A-127, G.S. 153A-131, G.S. 160A-182, G.S. 160A-187, and G.S. 160A-188, nor any local act establishing bird sanctuaries, except that local authorities operating bird sanctuaries may not regulate the taking of game or otherwise abrogate valid laws and regulations pertaining to the conservation of wildlife resources.

(d) Nothing in this Subchapter is intended to repeal or abridge the regulatory authority of the Game Commission of Currituck County or the Dare County Game and Wildlife Commission.

(e) Because of strong community interest expressed in their retention, the local acts or portions of local acts listed in this section are not repealed. The following local acts are retained to the extent they apply to the county for which listed:

Alleghany: Session Laws 1951, Chapter 665; Session Laws 1977, Chapter 526; Session Laws 1979, Chapter 556.

Anson: Former G.S. 113-111, as amended by Session Laws 1955, Chapter 286.

Ashe: Former G.S. 113-111; Session Laws 1951, Chapter 665.

Avery: Former G.S. 113-122.

Beaufort: Session Laws 1947, Chapter 466, as amended by Session Laws 1979, Chapter 219; Session Laws 1957, Chapter 1364; Session Laws 1971, Chapter 173.

Bertie: Session Laws 1955, Chapter 1376; Session Laws 1975, Chapter 287.

Bladen: Public-Local Laws 1933, Chapter 550, Section 2 (as it pertains to fox season); Session Laws 1961, Chapter 348 (as it applies to Bladen residents fishing in Robeson County); Session Laws 1961, Chapter 1023; Session Laws 1971, Chapter 384.

Brunswick: Session Laws 1975, Chapter 218.

Buncombe: Public-Local Laws 1933, Chapter 308.

Burke: Public-Local Laws 1921, Chapter 454; Public-Local Laws 1921 (Extra Session), Chapter 213, Section 3 (with respect to fox seasons); Public-Local Laws 1933, Chapter 422, Section 3; Session Laws 1977, Chapter 636.

Caldwell: Former G.S. 113-122; Session Laws 1977, Chapter 636; Session Laws 1979, Chapter 507.

Camden: Session Laws 1955, Chapter 362 (to the extent it applies to inland fishing waters); Session Laws 1967, Chapter 441.

Carteret: Session Laws 1955, Chapter 1036; Session Laws 1977, Chapter 695.

Caswell: Public-Local Laws 1933, Chapter 311; Public-Local Laws 1937, Chapter 411.

Catawba: Former G.S. 113-111, as amended by Session Laws 1955, Chapter 1037.

Chatham: Public-Local Laws 1937 Chapter 236; Session Laws 1963, Chapter 271.

Chowan: Session Laws 1979, Chapter 184; Session Laws 1979, Chapter 582.

Cleveland: Session Laws 1979, Chapter 587.

Columbus: Session Laws 1951, Chapter 492, as amended by Session Laws 1955, Chapter 506.

Craven: Session Laws 1971, Chapter 273, as amended by Session Laws 1971, Chapter 629.

Cumberland: Session Laws 1975, Chapter 748; Session Laws 1977, Chapter 471.

Dare: Session Laws 1973, Chapter 259.

Duplin: Session Laws 1965, Chapter 774; Session Laws 1973 (Second Session 1974), Chapter 1266; Session Laws 1979, Chapter 466.

Edgecombe: Session Laws 1961, Chapter 408.

Gates: Session Laws 1959, Chapter 298; Session Laws 1975, Chapter 269; Session Laws 1975, Chapter 748.

Granville: Session Laws 1963, Chapter 670.

Greene: Session Laws 1975, Chapter 219, Sections 1 and 2; Session Laws 1979, Chapter 360.

Halifax: Public-Local Laws 1925, Chapter 571, Section 3 (with respect to fox-hunting seasons); Session Laws 1947, Chapter 954; Session Laws 1955, Chapter 1376.

Haywood: Former G.S. 113-111, as modified by Session Laws 1963, Chapter 322.

Henderson: Former G.S. 113-111.

Hertford: Session Laws 1959, Chapter 298; Session Laws 1975, Chapter 269; Session Laws 1975, Chapter 748; Session Laws 1977, Chapter 67.

Hoke: Session Laws 1963, Chapter 267.

Hyde: Public-Local Laws 1929, Chapter 354, Section 1 (as it relates to foxes); Session Laws 1951, Chapter 932.

Iredell: Session Laws 1979, Chapter 577.

Jackson: Session Laws 1965, Chapter 765.

Johnston: Session Laws 1975, Chapter 342.

Jones: Session Laws 1979, Chapter 441.

Lee: Session Laws 1963, Chapter 271; Session Laws 1977, Chapter 636.

Lenoir: Session Laws 1979, Chapter 441.

Lincoln: Public-Local Laws 1925, Chapter 449, Sections 1 and 2; Session Laws 1955, Chapter 878.

Madison: Public-Local Laws 1925, Chapter 418, Section 4; Session Laws 1951, Chapter 1040.
 Martin: Session Laws 1955, Chapter 1376; Session Laws 1977, Chapter 636.
 Montgomery: Session Laws 1977 (Second Session 1978), Chapter 1142, Section 2.
 Nash: Session Laws 1961, Chapter 408.
 New Hanover: Session Laws 1971, Chapter 559; Session Laws 1975, Chapter 95.
 Northampton: Session Laws 1955, Chapter 1376; Session Laws 1975, Chapter 269; Session Laws 1975, Chapter 748; Session Laws 1977, Chapter 67; Session Laws 1979, Chapter 548.
 Orange: Public-Local Laws 1913, Chapter 547.
 Pamlico: Session Laws 1977, Chapter 636.
 Pender: Session Laws 1961, Chapter 333; Session Laws 1967, Chapter 229; Session Laws 1969, Chapter 258, as amended by Session Laws 1973, Chapter 420; Session Laws 1977, Chapter 585, as amended by Session Laws 1985, Chapter 421; Session Laws 1977, Chapter 805; Session Laws 1979, Chapter 546.
 Perquimans: Former G.S. 113-111; Session Laws 1973, Chapter 160; Session Laws 1973, Chapter 264.
 Polk: Session Laws 1975, Chapter 269, as amended by Session Laws 1977, Chapter 167.
 Randolph: Public-Local Laws 1941, Chapter 246; Session Laws 1947, Chapter 920.
 Robeson: Public-Local Laws 1924 (Extra Session), Chapter 92; Session Laws 1961, Chapter 348.
 Rockingham: Former G.S. 113-111; Public-Local Laws 1933, Chapter 310.
 Rowan: Session Laws 1975, Chapter 269, as amended by Session Laws 1977, Chapter 106, and Session Laws 1977, Chapter 500; Session Laws 1979, Chapter 556.
 Sampson: Session Laws 1979, Chapter 373.
 Scotland: Session Laws 1959, Chapter 1143; Session Laws 1977, Chapter 436.
 Stokes: Former G.S. 113-111; Public-Local Laws 1933, Chapter 310; Session Laws 1979, Chapter 556.
 Surry: Public-Local Laws 1925, Chapter 474, Section 6 (as it pertains to fox seasons); Session Laws 1975, Chapter 269, as amended by Session Laws 1977, Chapter 167.
 Swain: Public-Local Laws 1935, Chapter 52; Session Laws 1953, Chapter 270; Session Laws 1965, Chapter 765.
 Transylvania: Public Laws 1935, Chapter 107, Section 2, as amended by Public Laws 1935, Chapter 238.
 Tyrrell: Former G.S. 113-111; Session Laws 1953, Chapter 685.
 Wake: Session Laws 1973 (Second Session 1974), Chapter 1382.
 Washington: Session Laws 1947, Chapter 620.
 Wayne: Session Laws 1975, Chapter 269; Session Laws 1975, Chapter 342, as amended by Session Laws 1977, Chapter 43; Session Laws 1975, Chapter 343, as amended by Session Laws 1977, Chapter 45; Session Laws 1977, Chapter 695.
 Wilkes: Former G.S. 113-111, as amended by Session Laws 1971, Chapter 385; Session Laws 1951, Chapter 665; Session Laws 1973, Chapter 106; Session Laws 1979, Chapter 507.
 Yadkin: Former G.S. 113-111, as amended by Session Laws 1953, Chapter 199; Session Laws 1979, Chapter 507.
 Yancey: Session Laws 1965, Chapter 522.

(f) The Wildlife Resources Commission is directed to review periodically all local acts affecting conservation of wildlife resources and notify local authorities and the General Assembly as to those that:

- (1) Substantially duplicate provisions of this Subchapter.
- (2) Seriously conflict with conservation policies set out in this Subchapter.
- (3) Seriously conflict with conservation policies developed for the people of this State as a whole by the Wildlife Resources Commission.

(g) Notwithstanding G.S. 113-133.1(b), Chapter 565 of the Session Laws of 1977 is retained in effect. The following local conservation acts which specify that they must be specifically repealed are so repealed: Chapters 434 and 441 of the Session Laws of 1977. To provide for their retention or repeal in accordance with provisions applying to all other local wildlife acts, the following acts are amended to repeal the cited sections: Section 11, Chapter 258, Session Laws of 1969; and Section 4, Chapter 585, Session Laws of 1977. (1979, c. 830, ss. 1, 14; 1979, 2nd Sess., c. 1285, ss. 2, 11; c. 1324, s. 2; 1981, c. 249, s. 2; c. 250, s. 2; 1983, c. 109, s. 2; c. 487, s. 2; 1985, c. 112, s. 1; c. 302, s. 1; c. 689, s. 27; 1986, c. 893, s. 4; 1987, c. 33, s. 4; c. 131, ss. 4, 5; c. 245, s. 2; c. 282, s. 16; 1987 (Reg. Sess., 1988), c. 955, s. 4; 1989, c. 80, s. 2; 1989 (Reg. Sess., 1990), c. 837, s. 2; 1993, c. 65, s. 1; c. 221, s. 3; 1995, c. 509, s. 55; 1997-456, s. 26; 1997-496, s. 18; 2006-21, s. 2; 2006-226, s. 20; 2009-89, s. 1; 2014-115, s. 8; 2018-10, s. 2(b); 2019-107, s. 1(b).)

§ 113-134. Rules.

The Marine Fisheries Commission and the Wildlife Resources Commission may, within their jurisdictional limitations imposed by this Article, adopt rules implementing this Subchapter. (1915, c. 84, s. 21; 1917, c. 290, s. 7; C.S., 1878; 1925, c. 168, s. 2; 1935, c. 35; 1945, c. 776; 1953, cc. 774, 1251; 1963, c. 1097, s. 1; 1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1987, c. 827, s. 97.)

§ 113-134.1. Jurisdiction over marine fisheries resources in Atlantic Ocean.

The Marine Fisheries Commission is directed to exercise all regulatory authority over the conservation of marine fisheries resources in the Atlantic Ocean to the seaward extent of the State jurisdiction over the resources as now or hereafter defined. Marine fisheries inspectors may enforce these regulations and all other provisions of law applicable under the authority granted in this section in the same manner and with the same powers elsewhere granted them as enforcement officers. (1973, c. 1315; 1977, c. 771, s. 4; 1979, c. 830, s. 1; 1987, c. 641, ss. 5, 8.)

§ 113-135. General penalties for violating Subchapter or rules; increased penalty for prior convictions; interpretive provisions.

(a) Any person who violates any provision of this Subchapter or any rule adopted by the Marine Fisheries Commission or the Wildlife Resources Commission, as appropriate, pursuant to the authority of this Subchapter, is guilty of a misdemeanor except that punishment for violation of the rules of the Wildlife Resources Commission is limited as set forth in G.S. 113-135.1. Fishing without a license in violation of G.S. 113-174.1(a) or G.S. 113-270.1B(a) is punishable as an infraction. Otherwise, unless a different level of punishment is elsewhere set out, anyone convicted of a misdemeanor under this section is punishable as follows:

- (1) For a first conviction, as a Class 3 misdemeanor.
- (2) For a second or subsequent conviction within three years, as a Class 2 misdemeanor.

(b) In interpreting this section, provisions elsewhere in this Subchapter making an offense a misdemeanor "punishable in the discretion of the court" must be considered to set a different level of punishment, to be interpreted in the light of G.S. 14-3 or any equivalent or successor

statute. Noncriminal sanctions, however, such as license revocation or suspension, and exercise of powers auxiliary to criminal prosecution, such as seizure of property involved in the commission of an offense, do not constitute different levels of punishment so as to oust criminal liability. Any previous conviction of an offense under this Subchapter, or under rules authorized by it, serves to increase the punishment under subsection (a) even though for a different offense than the second or subsequent one.

(c) For the purposes of this Subchapter, violations of laws or rules administered by the Wildlife Resources Commission under any former general or local law replaced by the present provisions of this Subchapter are deemed to be violations of laws or rules under this Subchapter. (1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1979, c. 830, s. 1; 1987, c. 827, s. 98; 1991, c. 176, s. 1; c. 761, s. 50.5; 1993, c. 539, s. 836; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 209, s. 3; 2013-360, s. 18B.14(m); 2013-385, s. 6.)

§ 113-135.1. Limitation upon penalty for offense created by rules of Wildlife Resources Commission in certain instances.

(a) To prevent unsuspecting members of the public from being subject to harsh criminal penalties for offenses created by rules of the Wildlife Resources Commission, the penalty for an offense that is solely a violation of rules of the Wildlife Resources Commission is limited to a fine of twenty-five dollars (\$25.00) except as follows:

- (1) Offenses set out in subsection (b) of this section are punishable as set forth in G.S. 113-135 or other sections of the General Statutes.
 - (2) A person who parks a vehicle in violation of a rule regulating the parking of vehicles at boating access or boating launch areas is responsible for an infraction and shall pay a fine of fifty dollars (\$50.00).
- (b) The limitation upon penalty does not apply to any rule violation:
- (1) Punishable under G.S. 113-294 or otherwise involving aggravating elements that result in a greater punishment than provided by G.S. 113-135;
 - (2) That involves a defendant subject to the collection-license provisions of G.S. 113-272.4 or who is a dealer as defined in G.S. 113-273; or
 - (3) Relating to seasons, bag limits, creel limits, taking fish other than with hook and line, buying or selling wildlife, possessing or transporting live wildlife, taking wildlife at night or with the aid of a conveyance, or falconry. [or]
 - (4) Related to violation of emergency powers exercised to respond to a wildlife disease that threatens irreparable injury to wildlife or the public pursuant to G.S. 113-306(f). (1979, c. 830, s. 1; 1987, c. 827, s. 98; 2005-164, s. 1; 2012-200, s. 19; 2022-65, s. 1(a).)

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

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

(b) The jurisdiction of inspectors extends to all matters within the jurisdiction of the Department set out in this Subchapter, Part 5D of Article 7 of Chapter 143B of the General Statutes, Article 5 of Chapter 76 of the General Statutes, and Article 2 of Chapter 77 of the General Statutes, and to all other matters within the jurisdiction of the Department which it directs

(e) Except as otherwise specifically provided in this section, all property seized must be safeguarded pending trial by the inspector or protector initiating the prosecution. Upon a conviction the property seized in connection with the offense in question is subject to the disposition ordered by the court. Upon an acquittal, property seized must be returned to the defendant or established owner, except:

- (1) Where the property was summarily disposed of in accordance with subsection (d);
- (2) Where possession of the property by the person to whom it otherwise would be returned would constitute a crime; and
- (3) Where the property seized has been sold in accordance with subsection (g). In this event the net proceeds of the sale must be returned to the defendant or established owner, as the case may be.

Where property seized summarily under subsection (d) is not available for return, an acquitted defendant or established owner is entitled to no compensation where there was probable cause for the action taken. Within 20 days of the final court adjudication of a citation, the Department or the Wildlife Resources Commission shall notify any acquitted defendant or established owner of its duly established procedures whereby reimbursement may be sought for live fish seized summarily under subsection (d) that is not available for return. Any action or proceeding to recover compensation must be begun within 30 days after receipt of the notice of applicable procedures. After the expiration of this period of limitation, no right or action or claim for compensation shall be asserted.

In safeguarding property seized pending trial, an inspector or protector is authorized in his discretion, subject to orders of his administrative superiors, to make his own provisions for storage or safekeeping or to deposit the property with the sheriff of the county in which the trial is to be held for custody pending trial. In the event the mode of safekeeping reasonably selected by the inspector or protector entails a storage or handling charge, such charge is to be paid as follows:

- (1) By the defendant if he is convicted but the court nevertheless orders the return of the property to the defendant;
- (2) From the proceeds of the sale of the property if the property is sold under court order or in accordance with the provisions of this section; or
- (3) By the Department or by the Wildlife Resources Commission, as the case may be, if no other provision for payment exists.

(f) Subject to orders of his administrative superiors, an inspector or protector in his discretion may leave property which he is authorized to seize in the possession of the defendant with the understanding that such property will be subject to the orders of the court upon disposition of the case. Willful failure or inexcusable neglect of the defendant to keep such property subject to the orders of the court is a Class 1 misdemeanor. In exercising his discretion, the inspector or protector should not permit property to be retained by the defendant if there is any substantial risk of its being used by the defendant in further unlawful activity.

(g) Where a prosecution involving seized saleable fish is pending and such fish are perishable or seasonal, the inspector or protector may apply to the court in which the trial is pending for an order permitting sale prior to trial. As used in this subsection, seasonal fish are those which command a higher price at one season than at another so that economic loss may occur if there is a delay in the time of sale. When ordered by the court, such sale prior to trial must be conducted in accordance with the order of the court or in accordance with the provisions of this section. The net proceeds of such sale are to be deposited with the court and are subject to the same

disposition as would have been applicable to other types of property seized. Where sale is not lawful for public health reasons or otherwise not practicable or where prosecution is not pending, disposal of the fish is in accordance with subsection (d).

(h) Pending trial, the defendant or the established owner of any nonperishable and nonconsumable property seized may apply to the court designated to try the offense for return of the property. The property must be returned pending trial if:

- (1) The court is satisfied that return of the property will not facilitate further violations of the law; and
- (2) The claimant posts a bond for return of the property at trial in an amount double the value of the property as assessed by the court.

(i) Upon conviction of any defendant for a violation of the laws or rules administered by the Department or the Wildlife Resources Commission under the authority of this Subchapter, the court in its discretion may order the confiscation of all weapons, equipment, vessels, conveyances, fish, wildlife, and other evidence, fruits, and instrumentalities of the offense in question, whether or not seized or made subject to the orders of the court pending trial. If the confiscated property is lawfully saleable, it must be sold; otherwise it must be disposed of in a manner authorized in this section. Unless otherwise specified in the order of the court, sales are to be held by the Department or the Wildlife Resources Commission, as the case may be.

The Department and the Wildlife Resources Commission may administratively provide for an orderly public sale procedure of property which it may sell under this section. The procedure may include turning the property to be sold over to some other agency for sale, provided that the provisions of subsection (j) are complied with and there is proper accounting for the net proceeds of the sale. In the case of property that cannot lawfully be sold or is unlikely to sell for a sufficient amount to offset the costs of sale, the Department and the Wildlife Resources Commission may provide either for destruction of the property or legitimate utilization of the property by some public agency.

(j) Except as provided in subsection (d), if property is seized under subsection (c) or it appears that a person not a defendant has an interest in any property to be sold, destroyed, or otherwise disposed of, the Department and the Wildlife Resources Commission must provide for public notice of the description of the property and the circumstances of its seizure for a sufficient period prior to the time set for sale or other disposition to allow innocent owners or lienholders to assert their claims. The validity of claims are to be determined by the trial court in the event there is or has been a prosecution in connection with the seizure of the property. If there has been no prosecution and none is pending, the validity of claims must be determined by the Secretary or by the Executive Director, as the case may be. When there has been a sale under subsection (g), the provisions of this subsection apply to the net proceeds of the sale.

(k) Except as provided in subsection (j) and in subdivision (3) of the first paragraph of subsection (e), the net proceeds of all sales made pursuant to this section must be deposited in the school fund of the county in which the property was seized. (1915, c. 84, s. 6; 1917, c. 290, s. 2; C.S., s. 1885; 1935, c. 118; 1953, c. 1134; 1957, c. 1423, s. 2; 1961, c. 1189, s. 4; 1965, c. 957, s. 2; 1973, c. 1262, ss. 18, 28; 1979, c. 830, s. 1; 1983 (Reg. Sess., 1984), c. 1083, ss. 1-3; 1987, c. 827, s. 98; 1993, c. 539, s. 837; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 113-138. Enforcement jurisdiction of special conservation officers.

(a) The Wildlife Resources Commission by rule may confer law-enforcement powers over matters within its jurisdiction with respect to wildlife resources conservation laws and rules within

- (2) The offense is not of a kind or committed in a manner as to which warning tickets have been prohibited by the Executive Director or the Director of the Division of Marine Fisheries.
- (3) The conduct of the offender was not calculated to result in any significant destruction of wildlife or fisheries resources.
- (4) The conduct of the offender did not constitute a hazard to the public.

A warning ticket may not be issued if the offender has previously been charged with or issued a warning ticket for a similar offense.

(d) If any law-enforcement officer with jurisdiction over the offense or if any employee of the Wildlife Resources Commission or the Department learns that under the criteria of this section a warning ticket was inappropriately issued to an offender, he must take action to secure initiation of prosecution for the appropriate charge or charges unless barred by the statute of limitations or unless prosecution is not otherwise feasible because of unavailability of evidence or necessary witnesses.

(e) Before any warning tickets are issued, the Executive Director or the Director of the Division of Marine Fisheries must institute a procedure to ensure an accurate accounting for and recording of all warning tickets issued. This procedure may include use of prenumbered tickets and immediate notation of issuance of the warning ticket on each appropriate license or permit issued by the Wildlife Resources Commission or Department held by the offender. The Executive Director or the Director of the Division of Marine Fisheries may also provide for issuance of new, replacement, or renewal licenses and permits bearing the notation. The licenses covered by this subsection include certificates of number for motorboats.

(f) This section does not entitle any person who has committed an offense with the right to be issued a warning ticket. That issuance of a warning ticket may be appropriate under the criteria of this section does not restrict in any manner the powers of a wildlife protector or marine fisheries inspector or any other law-enforcement officer under G.S. 113-136, 113-137, and other provisions of law in dealing with hunters, fishermen, operators of vessels, and other offenders and suspected offenders.

(g) Issuance of a warning ticket does not constitute evidence of the commission of an offense, but may be used to prevent issuance of a subsequent warning ticket to the same person for a similar offense. (1981, c. 252, s. 1; 1987, c. 827, s. 98; 1989, c. 308.)

§§ 113-141 through 113-145. Reserved for future codification purposes.

Article 13A.

Clean Water Management Trust Fund.

§§ 113-145.1 through 113-145.8: Recodified as §§ 113A-251 through 113A-259 by Session Laws 2003-340, s. 1.3, effective July 27, 2003.

§§ 113-145.9 through 113-150. Reserved for future codification purposes.

Article 14.

Commercial and Sports Fisheries Licenses.

§§ 113-151 through 113-167. Repealed by Session Laws 1997-400, s. 5.4, effective July 1, 1999.

(j) Advance Sale of Licenses, License Revenue. – To ensure an orderly transition from one license year to the next, the Division may issue a license or endorsement prior to 1 July of the license year for which the license or endorsement is valid. Revenue that the Division receives for the issuance of a license or endorsement prior to the beginning of a license year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division only for the license year in which the license or endorsement is valid. Any license revenue carried forward from one fiscal year to the next under this subsection that remains unencumbered and unexpended at the end of the fiscal year in which the license or endorsement is valid shall revert to the General Fund. (1997-400, s. 5.1; 1998-225, s. 4.10; 1999-209, s. 6; 2001-213, s. 2; 2013-360, s. 14.8(a); 2014-100, s. 14.10.)

§ 113-168.2. Standard Commercial Fishing License.

(a) Requirement. – Except as otherwise provided in this Article, it is unlawful for any person to engage in a commercial fishing operation in the coastal fishing waters without holding a SCFL issued by the Division. A person who works as a member of the crew of a vessel engaged in a commercial fishing operation under the direction of a person who holds a valid SCFL is not required to hold a SCFL. A person who holds a SCFL is not authorized to take shellfish unless the SCFL is endorsed as provided in G.S. 113-168.5.

(a1) Use of Vessels. – The holder of a SCFL is authorized to use only one vessel in a commercial fishing operation at any given time. The Commission may adopt a rule to exempt from this requirement a person in command of a vessel that is auxiliary to a vessel engaged in a pound net operation, long-haul operation, or beach seine operation. A person who works as a member of the crew of a vessel engaged in a mechanical shellfish operation under the direction of a person who holds a valid SCFL with a shellfish endorsement is not required to hold a shellfish license.

(b) through (d) Repealed by Session Laws 1998-225, s. 4.11, effective July 1, 1999.

(e) Fees. – The annual SCFL fee for a resident of this State shall be four hundred dollars (\$400.00). The annual SCFL fee for a person who is not a resident of this State shall be the amount charged to a resident of this State in the nonresident's state. In no event, however, may the fee be less than four hundred dollars (\$400.00). For purposes of this subsection, a "resident of this State" is a person who is a resident within the meaning of:

- (1) Sub-subdivisions a. through d. of G.S. 113-130(4) and who filed a State income tax return as a resident of North Carolina for the previous calendar or tax year, or
- (2) G.S. 113-130(4)e.

(f) Assignment. – The holder of a SCFL may assign the SCFL to any individual who is eligible to hold a SCFL under this Article. It is unlawful for the holder of an SCFL to assign a shellfish endorsement of an SCFL to any individual who is not a resident of this State. The assignment shall be in writing on a form provided by the Division and shall include the name of the licensee, the license number, any endorsements, the assignee's name, mailing address, physical or residence address, and the duration of the assignment. If a notarized copy of an assignment is not filed with the Morehead City office of the Division within five days of the date of the assignment, the assignment shall expire. It is unlawful for the assignee of a SCFL to assign the SCFL. The assignment shall terminate:

- (1) Upon written notification by the assignor to the assignee and the Division that the assignment has been terminated.

- (2) Upon written notification by the estate of the assignor to the assignee and the Division that the assignment has been terminated.
 - (3) If the Division determines that the assignee is operating in violation of the terms and conditions applicable to the assignment.
 - (4) If the assignee becomes ineligible to hold a license under this Article.
 - (5) Upon the death of the assignee.
 - (6) If the Division suspends or revokes the assigned SCFL.
 - (7) At the end of the license year.
- (g) Transfer. – A SCFL may be transferred only by the Division. A SCFL may be transferred pursuant to rules adopted by the Commission or upon the request of:
- (1) A licensee, from the licensee to a member of the licensee's immediate family who is eligible to hold a SCFL under this Article.
 - (2) The administrator or executor of the estate of a deceased licensee, to the administrator or executor of the estate if a surviving member of the deceased licensee's immediate family is eligible to hold a SCFL under this Article. The administrator or executor must request a transfer under this subdivision within six months after the administrator or executor qualifies under Chapter 28A of the General Statutes. An administrator or executor who holds a SCFL under this subdivision may, for the benefit of the estate of the deceased licensee:
 - a. Engage in a commercial fishing operation under the SCFL if the administrator or executor is eligible to hold a SCFL under this Article.
 - b. Assign the SCFL as provided in subsection (f) of this section.
 - c. Renew the SCFL as provided in G.S. 113-168.1.
 - (3) An administrator or executor to whom a SCFL was transferred pursuant to subdivision (2) of this subsection, to a surviving member of the deceased licensee's immediate family who is eligible to hold a SCFL under this Article.
 - (4) The surviving member of the deceased licensee's immediate family to whom a SCFL was transferred pursuant to subdivision (3) of this subsection, to a third-party purchaser of the deceased licensee's fishing vessel.
 - (5) A licensee who is retiring from commercial fishing, to a third-party purchaser of the licensee's fishing vessel.
- (h) Identification as Commercial Fisherman. – The receipt of a current and valid SCFL or shellfish license issued by the Division shall serve as proper identification of the licensee as a commercial fisherman.
- (i) Record-Keeping Requirements. – The fish dealer shall record each transaction at the time and place of landing on a form provided by the Division. The transaction form shall include the information on the SCFL or shellfish license, the quantity of the fish, the identity of the fish dealer, and other information as the Division deems necessary to accomplish the purposes of this Subchapter. The person who records the transaction shall provide a completed copy of the transaction form to the Division and to the other party of the transaction. The Division's copy of each transaction form shall be transmitted to the Division by the fish dealer on or before the tenth day of the month following the transaction. (1997-400, s. 5.1; 1998-225, s. 4.11; 2001-213, s. 2; 2013-360, s. 14.8(b); 2013-384, s. 2(c); 2014-100, s. 14.9(b).)

§ 113-168.3. Retired Standard Commercial Fishing License.

(a) License Required. – Except as provided in subsection (j) of this section, it is unlawful for any person to take or attempt to take fish for recreational purposes by means of commercial fishing equipment or gear in coastal fishing waters without holding a RCGL. As used in this section, fish are taken for recreational purposes if the fish are not taken for the purpose of sale. The RCGL entitles the licensee to use authorized commercial gear to take fish for personal use subject to recreational possession limits. It is unlawful for any person licensed under this section or fishing under a RCGL to possess fish in excess of recreational possession limits.

(b) Sale of Fish Prohibited. – It is unlawful for the holder of a RCGL or for a person who is exempt under subsection (j) of this section to sell fish taken under the RCGL or pursuant to the exemption.

(c) Authorized Commercial Gear. –

(1) The Commission shall adopt rules authorizing the use of a limited amount of commercial fishing equipment or gear for recreational fishing under a RCGL. The Commission may authorize the limited use of commercial gear on a uniform basis in all coastal fishing waters or may vary the limited use of commercial gear within specified areas of the coastal fishing waters. The Commission shall periodically evaluate and revise the authorized use of commercial gear for recreational fishing. Authorized commercial gear shall be identified by visible colored tags or other means specified by the Commission in order to distinguish between commercial gear used in a commercial operation and commercial gear used for recreational purposes.

(2) A person who holds a RCGL may use up to 100 yards of gill net to take fish for recreational purposes. Two persons who each hold a RCGL and who are fishing from a single vessel may use up to a combined 200 yards of gill net to take fish for recreational purposes. No more than 200 yards of gill net may be used to take fish for recreational purposes from a single vessel regardless of the number of persons aboard the vessel who hold a RCGL.

(d) Purchase; Renewal. – A RCGL may be purchased at designated offices of the Division and from a license agent authorized under G.S. 113-172. A RCGL may be renewed by mail.

(e) Replacement RCGL. – The provisions of G.S. 113-168.1(h) apply to this section.

(f) Duration; Fees. – The RCGL shall be valid from the date of issue for a period of 12 months as defined by G.S. 113-270.1B(b) and G.S. 113-270.1B(c). The fee for a RCGL for a North Carolina resident shall be seventy dollars (\$70.00). The fee for a RCGL for an individual who is not a North Carolina resident shall be five hundred dollars (\$500.00).

(g) RCGL Available for Inspection. – It is unlawful for any person to engage in recreational fishing by means of restricted commercial gear in the State without having ready at hand for inspection a valid RCGL. A holder of a RCGL shall not refuse to exhibit the RCGL upon the request of an inspector or any other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(h) Assignment and Transfer Prohibited. – A RCGL is not transferable. Except as provided in subsection (j) of this section, it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a RCGL, or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a RCGL.

(i) Reporting Requirements. – The holder of a RCGL shall comply with the biological data sampling and survey programs of the Commission and the Division.

(j) Exemptions. –

- (1) A person who is under 16 years of age may take fish for recreational purposes by means of authorized commercial gear without holding a RCGL if the person is accompanied by a parent, grandparent, or guardian who holds a valid RCGL or if the person has in the person's possession a valid RCGL issued to the person's parent, grandparent, or guardian.
- (2) A person may take crabs for recreational purposes by means of one or more crab pots attached to the shore along privately owned land or to a privately owned pier without holding a RCGL provided that the crab pots are attached with the permission of the owner of the land or pier.
- (3) A person who is on a vessel may take fish for recreational purposes by means of authorized commercial gear without holding a RCGL if there is another person on the vessel who holds a valid RCGL. This exemption does not authorize the use of commercial gear in excess of that authorized for use by the person who holds the valid RCGL or, if more than one person on the vessel holds a RCGL, in excess of that authorized for use by those persons.
- (4) A person using nonmechanical means may take shellfish for personal use within the limits specified in G.S. 113-169.2(i) without holding a RCGL.
- (5) A person may take fish for recreational purposes by means of a gig without holding a RCGL. (1997-400, s. 5.1; 1997-456, s. 55.7; 1998-225, s. 4.21; 1999-209, s. 9; 2000-139, s. 1; 2001-213, s. 2; 2003-340, s. 1.2; 2004-187, s. 4; 2005-455, s. 1.18; 2013-360, s. 14.8(m); 2014-100, ss. 14.9(g), 14.25(c).)

§ 113-173.1. North Carolina Commercial Fishing Resource Fund.

(a) Establishment. – There is hereby established the North Carolina Commercial Fishing Resources Fund (Fund) as a nonreverting special revenue fund in the office of the State Treasurer. The purpose of the Fund is to provide funding for the development of sustainable commercial fishing in the State. The principal of the Fund shall consist of all of the following:

- (1) Two hundred dollars (\$200.00) from each Standard Commercial Fishing License issued pursuant to G.S. 113-168.2.
- (2) One hundred dollars (\$100.00) from each Retired Standard Commercial Fishing License issued pursuant to G.S. 113-168.3.
- (3) Twenty-five dollars (\$25.00) from each shellfish license issued pursuant to G.S. 113-169.2.
- (4) Fifty dollars (\$50.00) from each fish dealer license issued pursuant to G.S. 113-169.3.
- (5) Two hundred dollars (\$200.00) from each land or sell license issued pursuant to G.S. 113-169.5.
- (6) Thirty-five dollars (\$35.00) from each Recreational Commercial Gear License issued pursuant to G.S. 113-173.

The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Fund in accordance with the provisions of G.S. 147-69.2, except that interest and other income received on the fund balance shall be treated as set forth in G.S. 147-69.1(d).

(b) Use of Funds. – The North Carolina Commercial Fishing Resource Fund created by this section shall be used only for the following purposes, in order of priority:

- (1) First, the Fund shall fully fund the State's incidental take permits for the commercial fishing industry under the federal Endangered Species Act of 1973 (Public Law 93-205) or the federal Marine Mammal Protection Act of 1972 (Public Law 92-522).
- (2) After the priority set forth in subdivision (1) of this section has been fully funded, the Fund may be used for other projects to develop and support sustainable commercial fishing in the State.

(c) Procedure for Fund Disbursements. – With respect to funds used pursuant to subdivision (b)(1) of this section, the State Treasurer shall disburse the principal of the Fund only upon the written direction of the Director of the Division. With respect to funds used pursuant to subdivision (b)(2) of this section, the State Treasurer shall disburse the principal of the Fund only upon the written direction of both the Marine Fisheries Commission and the Funding Committee established by subsection (d) of this section following the procedures set forth in the memorandum of understanding developed under subsection (f) of this section. In the event of a disagreement between the Commission and the Committee, the Secretary of Environmental Quality shall decide between the directions proposed by the Commission and by the Committee.

(d) Funding Committee. – The Funding Committee for the North Carolina Commercial Fishing Resource Fund (Committee) is established and shall consist of six members who shall serve staggered terms. Each of the following commercial fishing organizations shall appoint one member for an initial term as indicated and provide notice of that appointment in the manner set forth in G.S. 143-47.6:

- (1) North Carolina Fisheries Association, Inc., for a term of three years.
- (2) North Carolina Watermen United, Inc., for a term of two years.
- (3) Ocracoke Working Watermen's Association, for a term of one year.
- (4) Brunswick County Fishermen's Association, for a term of three years.
- (5) Carteret County Fishermen's Association, for a term of two years.
- (6) Albemarle Fishermen's Association, for a term of one year.

Upon the expiration of the terms of the initial Committee members, each member shall be appointed by the appointing organizations designated in subdivisions (1) through (6) of this subsection for a three-year term and shall serve until a successor is appointed and qualified. Members may be reappointed, but no member may serve more than two consecutive full terms. The Committee shall elect annually a chair and other officers as it deems necessary to carry out the purposes of this section, who shall serve a term of one year corresponding to the calendar year.

(e) Vacancies, Meetings, Quorum. – Vacancies in the Committee shall be filled in the same manner as the original appointment. The Committee may meet at any time upon the call of the chair. A quorum of the group shall consist of four members.

(f) Memorandum of Understanding. – The Marine Fisheries Commission and the Committee shall develop and implement a memorandum of understanding setting forth the procedures for agreeing to and authorizing the disbursements from the Fund created in this section for the purposes described by subdivision (b)(2) of this section.

(g) Ethics. – Members of the Committee are public servants as defined in sub-subdivision i. of subdivision (70) of G.S. 138A-3. (2014-100, s. 14.9(i); 2015-241, s. 14.30(y); 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

Article 14B.

Coastal Recreational Fishing Licenses.

§ 113-174. Definitions.

As used in this Article:

- (1) Repealed by Session Laws 2005-455, s. 1.2, effective January 1, 2007.
- (1a) "CRFL" means Coastal Recreational Fishing License.
- (2) "Division" means the Division of Marine Fisheries in the Department of Environmental Quality.
- (2a) "For Hire Vessel" means a charter boat, head boat, dive boat, or other vessel hired to allow individuals to engage in recreational fishing.
- (3) "North Carolina resident" means an individual who is a resident within the meaning of G.S. 113-130(4).
- (4) "Recreational fishing" means any activity preparatory to, during, or subsequent to the taking of any finfish, the taking of which is subject to regulation by the Marine Fisheries Commission, by any means if the purpose of the taking is to obtain finfish that are not to be sold. "Recreational fishing" does not include the taking of finfish:
 - a. By a commercial fishing operation as defined in G.S. 113-168.
 - b. For scientific purposes pursuant to G.S. 113-261.
 - c. Under a RCGL issued pursuant to G.S. 113-173.
- (5) Repealed by Session Laws 2005-455, s. 1.2, effective January 1, 2007. (2004-187, s. 2; 2005-455, ss. 1.2, 1.19; 2013-360, s. 14.8(n); 2015-241, s. 14.30(u).)

§ 113-174.1. License required; general provisions governing licenses.

(a) License Required to Engage in Recreational Fishing. – It is unlawful for any individual to engage in recreational fishing in:

- (1) Coastal fishing waters that are not joint fishing waters without holding a current license issued under this Article or under Article 25A of this Chapter that authorizes the individual to engage in recreational fishing in coastal fishing waters.
- (2) Joint fishing waters without holding a current license issued under this Article or under Article 21 or Article 25A of this Chapter that authorizes the individual to engage in recreational fishing in joint fishing waters.

(a1) Compliance With Applicable Laws. – It is unlawful for any individual to engage in recreational fishing without complying with applicable requirements of this Article and Articles 21 and 25A of this Chapter and with applicable rules adopted by the Marine Fisheries Commission and the Wildlife Resources Commission.

(a2) Fourth of July Free Fishing Day. – The fourth day of July of each year is declared a free fishing day to promote the sport of fishing, and no license issued under this Article or Article 25A of this Chapter is required to fish in any of the public waters of the State on that day. All other laws and rules pertaining to recreational fishing apply.

(b) Sale of Fish Prohibited. – A license issued under this Article or Article 25A of this Chapter does not authorize an individual who takes or lands any species of fish under the authority of the Marine Fisheries Commission to sell, offer for sale, barter, or exchange the fish for anything of value. Except as provided in G.S. 113-168.4, it is unlawful for any individual who takes or lands any species of fish under the authority of the Marine Fisheries Commission by any means to sell, offer for sale, barter, or exchange these fish for anything of value.

- (2) Repealed by Session Laws 2005-455, s. 1.4, effective January 1, 2007.
- (3) Repealed by Session Laws 2005-455, s. 1.4, effective January 1, 2007.
- (4) Ten-Day Resident CRFL. – \$5.00. This license is valid for a period of 10 consecutive days, as indicated on the license. This license shall be issued only to an individual who is a resident of the State.
- (4a) Ten-Day Nonresident CRFL. – \$10.00. This license is valid for a period of 10 consecutive days, as indicated on the license. This license shall be issued only to an individual who is not a resident of the State.
- (5) Repealed by Session Laws 2005-455, s. 1.4, effective January 1, 2007.
- (6) Lifetime CRFLs. – Except as provided in sub-subdivision j. of this subdivision, CRFLs issued under this subdivision are valid for the lifetime of the licensee.
 - a. –d. Repealed by Session Laws 2005-455, s. 1.4, effective January 1, 2007.
 - e. Infant Lifetime CRFL. – \$100.00. This license shall be issued only to an individual younger than one year of age.
 - f. Youth Lifetime CRFL. – \$150.00. This license shall be issued only to an individual who is one year of age or older but younger than 12 years of age.
 - g. Resident Adult Lifetime CRFL. – \$250.00. This license shall be issued only to an individual who is 12 years of age or older but younger than 70 years of age and who is a resident of the State.
 - h. Nonresident Adult Lifetime CRFL. – \$500.00. This license shall be issued only to an individual who is 12 years of age or older and who is not a resident of the State.
 - i. Resident Age 70 Lifetime CRFL. – \$15.00. This license shall be issued only to an individual who is 70 years of age or older and who is a resident of the State.
 - j. Resident Disabled Veteran CRFL. – \$10.00. This license shall be issued only to an individual who is a resident of the State and who is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans Affairs or as established by G.S. 113-351(c)(3)(f). This license remains valid for the lifetime of the licensee so long as the licensee remains fifty percent (50%) or more disabled.
 - k. Resident Totally Disabled CRFL. – \$10.00. This license shall be issued only to an individual who is a resident of the State and who is totally and permanently disabled as determined by the Social Security Administration or as established by G.S. 113-351(c)(3)(g).
- (d) Exemptions. – An individual is exempt from the license requirements of G.S. 113-174.1(a) if the individual either:
 - (1) Is under 16 years of age.
 - (2) Holds any of the following licenses that were purchased prior to January 1, 2006:
 - a. Infant Lifetime Sportsman License issued under G.S. 113-270.1D(b)(1).
 - b. Youth Lifetime Sportsman License issued under G.S. 113-270.1D(b)(2).
 - c. Adult Resident Lifetime Sportsman License issued under G.S. 113-270.1D(b)(3).

- particular equipment, or as to other activities within the jurisdiction of the Department; and
- (2) The possession, cultivation, transportation, importation, exportation, sale, purchase, acquisition, and disposition of all marine and estuarine resources and all related equipment, implements, vessels, and conveyances as necessary to implement the work of the Department in carrying out its duties.
 - (3) The possession, transportation, importation, exportation, sale, purchase, acquisition, and disposition of all fish taken in the Atlantic Ocean out to a distance of 200 miles from the State's mean low watermark, consistent with the Magnuson Fishery Conservation and Management Act, 16 U.S.C. § 1801, et seq., as amended. (1915, c. 84, s. 21; 1917, c. 290, s. 7; C.S., s. 1878; 1925, c. 168, s. 2; 1935, c. 35; 1945, c. 776; 1953, cc. 774, 1251; 1961, c. 1189, s. 1; 1963, c. 1097, s. 1; 1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1995, c. 507, s. 26.5(c); 1997-400, s. 6.6.)

§ 113-182.1. Fishery Management Plans.

(a) The Department shall prepare proposed Fishery Management Plans for adoption by the Marine Fisheries Commission for all commercially or recreationally significant species or fisheries that comprise State marine or estuarine resources. Proposed Fishery Management Plans shall be developed in accordance with the Priority List, Schedule, and guidance criteria established by the Marine Fisheries Commission under G.S. 143B-289.52.

(b) The goal of the plans shall be to ensure the long-term viability of the State's commercially and recreationally significant species or fisheries. Each plan shall be designed to reflect fishing practices so that one plan may apply to a specific fishery, while other plans may be based on gear or geographic areas. Each plan shall:

- (1) Contain necessary information pertaining to the fishery or fisheries, including management goals and objectives, status of relevant fish stocks, stock assessments for multiyear species, fishery habitat and water quality considerations consistent with Coastal Habitat Protection Plans adopted pursuant to G.S. 143B-279.8, social and economic impact of the fishery to the State, and user conflicts.
- (2) Recommend management actions pertaining to the fishery or fisheries.
- (3) Include conservation and management measures that will provide the greatest overall benefit to the State, particularly with respect to food production, recreational opportunities, and the protection of marine ecosystems, and that will produce a sustainable harvest.
- (4) Repealed by Session Laws 2010-13, s. 1, effective June 23, 2010.
- (5) Specify a time period, not to exceed two years from the date of the adoption of the plan, to end overfishing. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.
- (6) Specify a time period, not to exceed 10 years from the date of the adoption of the plan, for achieving a sustainable harvest. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of

this subdivision incompatible with professional standards for fisheries management.

- (7) Include a standard of at least fifty percent (50%) probability of achieving sustainable harvest for the fishery or fisheries. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.

(c) To assist in the development of each Fishery Management Plan, the Chair of the Marine Fisheries Commission shall appoint a fishery management plan advisory committee. Each fishery management plan advisory committee shall be composed of commercial fishermen, recreational fishermen, and scientists, all with expertise in the fishery for which the Fishery Management Plan is being developed.

(c1) The Department shall consult with the regional advisory committees established pursuant to G.S. 143B-289.57(e) regarding the preparation of each Fishery Management Plan. Before submission of a plan for review by the Joint Legislative Commission on Governmental Operations, the Department shall review any comment or recommendation regarding the plan that a regional advisory committee submits to the Department within the time limits established in the Schedule for the development and adoption of Fishery Management Plans established by G.S. 143B-289.52. Before the Commission adopts a management measure to implement a plan, the Commission shall review any comment or recommendation regarding the management measure that a regional advisory committee submits to the Commission.

(d) Each Fishery Management Plan shall be reviewed at least once every five years. The Marine Fisheries Commission may revise the Priority List and guidance criteria whenever it determines that a revision of the Priority List or guidance criteria will facilitate or improve the development of Fishery Management Plans or is necessary to restore, conserve, or protect the marine and estuarine resources of the State. The Marine Fisheries Commission may not revise the Schedule for the development of a Fishery Management Plan, once adopted, without the approval of the Secretary of Environmental Quality.

(e) The Secretary of Environmental Quality shall monitor progress in the development and adoption of Fishery Management Plans in relation to the Schedule for development and adoption of the plans established by the Marine Fisheries Commission. The Secretary of Environmental Quality shall report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division within 30 days of the completion or substantial revision of each proposed Fishery Management Plan. The Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources shall review each proposed Fishery Management Plan within 30 days of the date the proposed Plan is submitted by the Secretary. The Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources may submit comments and recommendations on the proposed Plan to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary.

(e1) If the Secretary determines that it is in the interest of the long-term viability of a fishery, the Secretary may authorize the Commission to develop temporary management measures to supplement an existing Fishery Management Plan pursuant to this subsection. Development of temporary management measures pursuant to this subsection is exempt from subsections (c), (c1), and (e) of this section and the Priority List, Schedule, and guidance criteria established by the Marine Fisheries Commission under G.S. 143B-289.52. During the next review period for a

Fishery Management Plan supplemented pursuant to this subsection, the Commission shall either incorporate the temporary management measures into the revised Fishery Management Plan or the temporary management measures shall expire on the date the revised Fishery Management Plan is adopted.

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

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

- (1) Current participation in and dependence on the fishery.
- (2) Past fishing practices in the fishery.
- (3) Economics of the fishery.
- (4) Capability of fishing vessels used in the fishery to engage in other fisheries.
- (5) Cultural and social factors relevant to the fishery and any affected fishing communities.
- (6) Capacity of the fishery to support biological parameters.
- (7) Equitable resolution of competing social and economic interests.
- (8) Any other relevant considerations. (1997-400, s. 3.4; 1997-443, s. 11A.119(b); 1998-212, s. 14.3; 1998-225, s. 2.1; 2001-213, s. 1; 2001-452, s. 2.1; 2004-160, ss. 3, 4; 2007-495, ss. 6, 7; 2010-13, s. 1; 2010-15, s. 1; 2011-291, ss. 2.27, 2.28; 2012-201, s. 1; 2013-360, s. 14.8(r); 2015-241, s. 14.30(v); 2015-286, s. 4.12(b); 2017-57, s. 14.1(d).)

§ 113-183. Unlawful possession, transportation and sale of fish.

(a) It is unlawful to possess, transport, offer to transport, sell, offer to sell, receive, buy, or attempt to buy any fish regulated by the Department with knowledge or reason to believe that such fish are illicit.

(b) Fish are illicit when taken, possessed, or dealt with unlawfully, or when there has occurred at any time with respect to such fish a substantial failure of compliance with the applicable provisions of this Subchapter or of rules made under the authority of this Subchapter. (1961, c. 1189, s. 2; 1965, c. 957, s. 2; 1987, c. 827, s. 98.)

§ 113-184. Possession and transportation of prohibited oyster equipment.

(a) It is unlawful to carry aboard any vessel subject to licensing requirements under Article 14A under way or at anchor in coastal fishing waters during the regular closed oyster season any scoops, scrapes, dredges, or winders such as are usually or can be used for taking oysters. Provided that when such vessels are engaged in lawfully permitted oyster harvesting operations on any privately held shellfish bottom lease under G.S. 113-202 or G.S. 113-205, the vessel shall be exempt from this requirement.

(b) If any vessel has recently been under way or at anchor in coastal fishing waters engaged in activity similar in manner to that in which oysters are taken with scoops, scrapes, or dredges and at a time or place in which the taking of oysters is prohibited, the presence on board of the vessel of

inheritance, gift, seizure and sale under execution or other legal process, and the like. Leases properly acknowledged and probated are eligible for recordation in the same manner as instruments conveying an estate in real property. Within 30 days after transfer of beneficial ownership of all or any portion of or interest in a leasehold to another, the new owner must notify the Secretary of such fact. Such transfer is not valid until notice is furnished the Secretary. In the event such transferee is a nonresident, the Secretary must initiate proceedings to terminate the lease.

(l) Upon receipt of notice by the Secretary of any of the following occurrences, he must commence action to terminate the leasehold:

- (1) Failure to pay the annual rent in advance.
- (2) Failure to file information required by the Secretary upon annual remittance of rental or filing false information on the form required to accompany the annual remittance of rental.
- (3) Failure by new owner to report a transfer of beneficial ownership of all or any portion of or interest in the leasehold.
- (4) Failure to mark the boundaries in the leasehold and to keep them marked as required in the rules of the Marine Fisheries Commission.
- (5) Failure to utilize the leasehold on a continuing basis for the commercial production of shellfish.
- (6) Transfer of all or part of the beneficial ownership of a leasehold to a nonresident.
- (7) Substantial breach of compliance with the provisions of this Article or of rules of the Marine Fisheries Commission governing use of the leasehold.
- (8) Failure to comply with the training requirements established by the Marine Fisheries Commission pursuant to G.S. 113-201(c).

(l1) The Marine Fisheries Commission is authorized to make rules defining commercial production of shellfish, based upon the productive potential of particular areas climatic or biological conditions at particular areas or particular times, availability of seed shellfish, availability for purchase by lessees of shells or other material to which oyster spat may attach, and the like. Commercial production may be defined in terms of planting effort made as well as in terms of quantities of shellfish harvested. Provided, however, that if a lessee has made a diligent effort to effectively and efficiently manage his lease according to accepted standards and practices in such management, and because of reasons beyond his control, such as acts of God, such lessee has not and cannot meet the requirements set out by the Marine Fisheries Commission under the provisions of this subsection, his leasehold shall not be terminated under subdivision (5) of subsection (l) of this section.

(m) In the event the leaseholder takes steps within 30 days to remedy the situation upon which the notice of intention to terminate was based and the Secretary is satisfied that continuation of the lease is in the best interests of the shellfish culture of the State, the Secretary may discontinue termination procedures. Where there is no discontinuance of termination procedures, the leaseholder may initiate a contested case by filing a petition under G.S. 150B-23 within 30 days of receipt of notice of intention to terminate. Where the leaseholder does not initiate a contested case, or the final decision upholds termination, the Secretary must send a final letter of termination to the leaseholder. The final letter of termination may not be mailed sooner than 30 days after receipt by the leaseholder of the Secretary's notice of intention to terminate, or of the final agency decision, as appropriate. The lease is terminated effective at midnight on the day the final notice of termination

the amount so fixed. The Department may make such payments from such funds as may be available to it. An appeal lies to the appellate division by either party both as to the validity of the claim and as to the fairness of the amount fixed. The Department in such actions may be represented by the Attorney General. In determining the availability of funds to the Department to underwrite the costs of litigation or make condemnation payments, the use which the Department proposes to make of the area in question may be considered; such payments are to be deemed necessary expenses in the course of operations attending such use or of developing or attempting to develop the area in the proposed manner.

(e) A person who claims that the application of G.S. 113-205 or this section has deprived him of his private property rights in land under navigable waters or his right of fishery in navigable waters without just compensation may file a complaint in the superior court of the county in which the property is located to contest the application of G.S. 113-205 or this section. If the plaintiff prevails, the trier of fact shall fix the monetary worth of the claim, and the Department may condemn the claim upon payment of this amount to him if the Secretary considers condemnation appropriate and necessary to conserve the marine and estuarine resources of the State. The Department may pay for a condemned claim from available funds. An action under this subsection is considered a condemnation action and is therefore subject to G.S. 7A-248.

The limitation period for an action brought under this subsection is three years. This period is tolled during the disability of the plaintiff. No action, however, may be instituted under this subsection after December 31, 2006.

(f) In evaluating claims registered pursuant to G.S. 113-205, the Secretary shall favor public ownership of submerged lands and public trust rights. The Secretary's action does not alter or affect in any way the rights of a claimant or the State. (1965, c. 957, s. 2; 1969, c. 44, s. 69; c. 541, s. 11; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1985, c. 279; c. 762; 1989, c. 423, s. 3; c. 727, s. 102; 1989 (Reg. Sess., 1990), c. 869, ss. 1, 2; 1993 (Reg. Sess., 1994), c. 717, ss. 1-3; 1998-179, s. 1; 2006-79, s. 11.)

§ 113-207. Taking shellfish from certain areas forbidden; penalty.

(a), (b) Repealed by Session Laws 2009-433, s. 7, effective August 7, 2009.

(c) It is unlawful for any person to take shellfish within 150 feet of any part of a publicly owned pier beneath which the Division of Marine Fisheries has deposited cultch material.

(d) A person who violates this section is guilty of a Class 3 misdemeanor. (1977, c. 515, s. 1; c. 771, s. 4; 1989, c. 727, s. 103; 1993, c. 539, s. 841; 1994, Ex. Sess., c. 24, s. 14(c); 1999-143, s. 1; 2009-433, s. 7.)

§ 113-208. Protection of private shellfish rights.

(a) It is unlawful for any person, other than the holder of private shellfish rights, to take or attempt to take shellfish from any privately leased, franchised, or deeded shellfish bottom area without written authorization of the holder and with actual knowledge it is a private shellfish bottom area. Actual knowledge will be presumed when the shellfish are taken or attempted to be taken:

- (1) From within the confines of posted boundaries of the area as identified by signs, whether the whole or any part of the area is posted, or
- (2) When the area has been regularly posted and identified and the person knew the area to be the subject of private shellfish rights.

- (3) Marine aquatic species. – Any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant, and including, but not limited to, "fish" and "fishes," as defined in G.S. 113-129(7), found exclusively or for part of its life cycle in coastal fishing waters. (2017-190, s. 1.)

§ 113-216. Legislative findings and declaration of policy.

The General Assembly finds that development of a marine aquaculture industry in the State provides increased seafood production and long-term economic and employment opportunities. The General Assembly declares that it is the policy of the State to encourage the development of private, commercial marine aquaculture in ways that are compatible with other public uses of marine and estuarine resources such as navigation, fishing, and recreation. (2017-190, s. 1.)

§ 113-217. New leases for marine aquaculture.

(a) To increase the use of suitable areas underlying coastal fishing waters for establishment of marine aquaculture, the Secretary may grant marine aquaculture leases under the terms of this section when the Secretary determines, in accordance with the Secretary's duty to conserve the marine and estuarine resources of the State, that the public interest will benefit from issuance of the lease. Suitable areas for marine aquaculture shall meet the following minimum standards:

- (1) The area leased must not contain a natural commercially significant shellfish bed.
- (2) The marine aquaculture operation in the leased area will not unreasonably interfere with lawful utilization by the public of other marine and estuarine resources. Other public uses which may be considered include, but are not limited to, navigation, fishing, and recreation.
- (3) The operation of a marine aquaculture operation in the leased area will not unreasonably interfere upon the rights of riparian owners.
- (4) The area leased must not include an area designated for inclusion in the Department's Shellfish Management Program.
- (5) The area leased must not include an area that the State Health Director has recommended be closed to shellfish harvest by reason of pollution.
- (6) The marine aquaculture operation would not unreasonably interfere with public access and use of waters of the State, taking into account the potential economic impact of the operation.
- (7) Aquaculture use of the leased area must not significantly impair navigation.
- (8) The leased area must not be within a navigation channel marked or maintained by a State or federal agency.
- (9) The leased area must not be within an area traditionally used and available for significant levels of fishing or hunting activities incompatible with the activities proposed by the leaseholder, such as trawling or seining.
- (10) Aquaculture use of the leased area must not significantly interfere with the exercise of riparian rights by adjacent property owners, including access to navigation channels from piers or other means of access.

(b) The Secretary may delete any part of an area proposed for lease or may condition a lease to protect the public interest with respect to the factors enumerated in subsection (a) of this section. The Secretary shall enter into memoranda of agreement with the United States Army Corps of Engineers or any other appropriate State or federal regulatory agencies to provide for

appropriate standards and markings for marine aquaculture structures to avoid impairment of navigation.

(c) No person, including a corporate entity or single family unit, may acquire and hold by lease, lease renewal, or purchase more than 1,500 acres under marine aquaculture leases. No individual lease may exceed 100 acres. For purposes of this subsection, the number of acres of leases held by a person includes acres held by a corporation in which the person holds an interest.

(d) Any person desiring to apply for a lease must make written application to the Secretary on forms prepared by the Department containing such information as deemed necessary to determine the desirability of granting or not granting the lease requested. Except in the case of renewal leases, the application must be accompanied by a map or diagram made at the expense of the applicant, showing the area proposed to be leased.

(e) The map or diagram must conform to standards prescribed by the Secretary concerning accuracy of map or diagram and the amount of detail that must be shown. If, on the basis of the application information and map or diagram, the Secretary deems that granting the lease would benefit the marine aquaculture industry of North Carolina, the Secretary must order an investigation of the area proposed to be leased. The investigation is to be made by the Secretary or the Secretary's authorized agent to determine whether the area proposed to be leased is consistent with the standards in subsection (a) of this section. In the event the Secretary finds the application inconsistent with the applicable standards, the Secretary shall deny the application or propose that a conditional lease be issued that is consistent with the applicable standards. In the event the Secretary authorizes amendment of the application, the applicant must furnish a new map or diagram meeting requisite standards showing the area proposed to be leased under the amended application. At the time of making an application for an initial lease, the applicant must pay a filing fee of two hundred dollars (\$200.00).

(f) The area proposed to be leased must be as compact as possible, taking into consideration the shape of the body of water, the consistency of the bottom, and the desirability of separating the boundaries of a leasehold by a sufficient distance from any other marine aquaculture operations or shellfish leases.

(g) Within 60 days after receipt of an application that complies with subsection (e) of this section, the Secretary shall notify the applicant of the intended action on the lease application. If the intended action is approval of the application as submitted, or approval with a modification to which the applicant agrees, the Secretary shall conduct a public hearing in the county where the proposed leasehold lies. The Secretary must publish at least two notices of the intention to lease in a newspaper of general circulation in the county in which the proposed leasehold lies. The first publication must precede the public hearing by more than 20 days; the second publication must follow the first by seven to 11 days. The notice of intention to lease must contain a description of the area of the proposed leasehold sufficient to establish its boundaries with reasonable ease and certainty and must also contain the date, hour, and place of the hearing.

(h) After consideration of the public comment received and any additional investigations the Secretary orders to evaluate the comments, the Secretary shall notify the applicant in person or by certified or registered mail of the decision on the lease application. The Secretary shall also notify persons who submitted comments at the public hearing and requested notice of the lease decision. An applicant who is dissatisfied with the Secretary's decision or another person aggrieved by the decision may commence a contested case by filing a petition under G.S. 150B-23 within 20 days after receiving notice of the Secretary's decision. In the event the Secretary's decision is a

§ 113-220: Reserved for future codification purposes.

Article 17.

Administrative Provisions; Regulatory Authority of Marine Fisheries Commission and Department.

§ 113-221. Rules.

(a) Chapter 150B of the General Statutes governs the adoption of rules under this Article.

(b) Upon purchasing a license, each licensee shall be provided access to a copy of the rules concerning the activities authorized by the license. The copy may be in written or electronic form, including by file download over the Internet. A written copy of the rules shall be provided to a licensee upon request.

(c) The Fisheries Director shall notify licensees of a new rule or change to a rule by sending each licensee either a newsletter containing the text of the rule or change or an updated codification of the rules of the Marine Fisheries Commission that contains the new rule or change. The Director may elect to use electronic means rather than mail to notify licensees if electronic means would be more timely and cost-effective. A written copy of any notification produced in accordance with this section shall be provided to a licensee upon request.

(d) Unless there are overriding policy considerations involved, any rule of the Marine Fisheries Commission that will result in severe curtailment of the usefulness or value of equipment in which fishermen have any substantial investment shall be given a future effective date so as to minimize undue potential economic loss to fishermen. Whether or not any rule will result in severe curtailment of the usefulness or value of equipment in which fishermen have any substantial investment and whether or not a future effective date should be set is a matter within the sole discretion of the Marine Fisheries Commission. This subsection does not require the Marine Fisheries Commission to establish an effective date that is more than two years later than the date on which the rule is adopted.

(e) Repealed by Session Laws 2003-154, s. 1, effective July 1, 2003.

(e1) Repealed by Session Laws 2003-154, s. 1, effective July 1, 2003.

(f) All persons who may be affected by rules adopted by the Marine Fisheries Commission are under a duty to keep themselves informed of the current rules. It is no defense in any criminal prosecution for the defendant to show that the defendant in fact received no notice of a particular rule. In any prosecution for violation of a rule, or in which proof of matter contained in a rule is involved, the Department is deemed to have complied with publication procedures and the burden is on the defendant to show by the greater weight of the evidence substantial failure of compliance by the Department with the required publication procedures.

(g) Every court shall take judicial notice of any codification of rules issued by the Fisheries Director within two years preceding the date of the offense charged or transaction in issue. In the absence of any indication to the contrary, the codifications are to be deemed accurate and current statements of the text of the rules in question and it is incumbent upon any person asserting that a relevant portion of the codified text is inaccurate, or has been amended or deleted, to satisfy the court as to the text of the rules that is in fact properly applicable.

(h) Repealed by Session Laws 1983, c. 221, s. 1. (1915, c. 84, s. 21; 1917, c. 290, s. 7; C.S., s. 1878; 1925, c. 168, s. 2; 1935, c. 35; 1945, c. 776; 1953, cc. 774, 1134, 1251; 1963, c. 1097, s. 1; 1965, c. 957, s. 2; 1973, c. 1262, ss. 28, 86; c. 1331, s. 3; 1975, 2nd Sess., c. 983, s. 70; 1979, c. 388, s. 6; 1983, cc. 221, 619, 620; 1987, c. 641, ss. 7, 19; c. 827, s. 7; 1997-400, s. 4.3; 1998-225, s. 3.8; 2000-189, s. 9; 2003-154, s. 1; 2014-100, s. 14.13.)

§ 113-221.1. Proclamations; emergency review.

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

(b) The Marine Fisheries Commission may delegate to the Fisheries Director the authority to issue proclamations suspending or implementing, in whole or in part, particular rules of the Commission that may be affected by variable conditions. These proclamations shall be issued by the Fisheries Director or by a person designated by the Fisheries Director. Except as provided in this subsection, all proclamations shall state the hour and date upon which they become effective and shall be issued at least 48 hours in advance of the effective date and time. A proclamation that prohibits the taking of certain fisheries resources for reasons of public health or that governs a quota-managed fishery may be made effective immediately upon issuance. A proclamation to reopen the taking of certain fisheries resources closed for reasons of public health shall be issued at least 12 hours in advance of the effective date and time of the reopening. A person who violates a proclamation that is made effective immediately upon issuance shall not be charged with a criminal offense for the violation if the violation occurred between the time of issuance and 48 hours after the issuance and the person did not have actual notice of the issuance of the proclamation. Fisheries resources taken or possessed by any person in violation of any proclamation may be seized regardless of whether the person had actual notice of the proclamation. A permanent file of the text of all proclamations shall be maintained in the office of the Fisheries Director. Certified copies of proclamations are entitled to judicial notice in any civil or criminal proceeding. The Fisheries Director shall make every reasonable effort to give actual notice of the terms of any proclamation to persons who may be affected by the proclamation. Reasonable effort includes a press release to communications media, posting of a notice at docks and other places where persons affected may gather, personal communication by inspectors and other agents of the Fisheries Director, and other measures designed to reach the persons who may be affected. It is a defense to an enforcement action for a violation of a proclamation that a person was prevented from receiving notice of the proclamation due to a natural disaster or other act of God occasioned exclusively by violence of nature without interference of any human agency and that could not have been prevented or avoided by the exercise of due care or foresight.

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

(d) Pursuant to the request of five or more members of the Marine Fisheries Commission, the Chair of the Marine Fisheries Commission may call an emergency meeting of the Commission to review an issuance or proposed issuance of proclamations under the authority delegated to the Fisheries Director pursuant to subsection (b) of this section or to review the desirability of directing the Fisheries Director to issue a proclamation to prohibit or allow the taking of certain fisheries resources. At least 48 hours prior to any emergency meeting called pursuant to this subsection, a public announcement of the meeting shall be issued that describes the action requested by the members of the Marine Fisheries Commission. The Department shall make every reasonable effort

to give actual notice of the meeting to persons who may be affected. After its review is complete, the Marine Fisheries Commission, consistent with its duty to protect, preserve, and enhance the commercial and sports fisheries resources of the State, may approve, cancel, or modify the previously issued or proposed proclamation under review or may direct the Fisheries Director to issue a proclamation that prohibits or allows the taking of certain fisheries resources. An emergency meeting called pursuant to this subsection and any resulting orders issued by the Marine Fisheries Commission are exempt from the provisions of Article 2A of Chapter 150B of the General Statutes. The decisions of the Marine Fisheries Commission shall be the final decision of the State and shall not be set aside on judicial review unless found to be arbitrary and capricious. (1915, c. 84, s. 21; 1917, c. 290, s. 7; C.S., s. 1878; 1925, c. 168, s. 2; 1935, c. 35; 1945, c. 776; 1953, cc. 774, 1134, 1251; 1963, c. 1097, s. 1; 1965, c. 957, s. 2; 1973, c. 1262, ss. 28, 86; c. 1331, s. 3; 1975, 2nd Sess., c. 983, s. 70; 1979, c. 388, s. 6; 1983, cc. 221, 619, 620; 1987, c. 641, ss. 7, 19; c. 827, s. 7; 1997-400, s. 4.3; 1998-225, s. 3.8; 2000-189, s. 9; 2003-154, s. 2.)

§ 113-221.2. Additional rules to establish sanitation requirements for scallops, shellfish, and crustacea; permits and permit fees authorized.

(a) Authority to Adopt Certain Rules and Establish Permits. – For the protection of the public health, the Marine Fisheries Commission shall adopt rules establishing sanitation requirements for the harvesting, processing and handling of scallops, shellfish, and crustacea of in-State origin. The rules of the Marine Fisheries Commission may also regulate scallops, shellfish, and crustacea shipped into North Carolina. The Department is authorized to enforce the rules and may issue and revoke permits according to the rules. The Department is authorized to establish a fee for each permit not to exceed one hundred dollars (\$100.00).

(b) Advance Sale of Permits; Permit Revenue. – To ensure an orderly transition from one permit year to the next, the Division may issue a permit prior to July 1 of the permit year for which the permit is valid. Revenue that the Division receives for the issuance of a permit prior to the beginning of a permit year shall not revert at the end of the fiscal year in which the revenue is received and shall be credited and available to the Division for the permit year in which the permit is valid. (1965, c. 783, s. 1; 1967, c. 1005, s. 1; 1973, c. 476, s. 128; 1983, c. 891, s. 2; 2011-145, s. 13.3(ppp), (qqq); 2013-360, s. 14.8(u).)

§ 113-221.3. Monitoring program for State coastal fishing and recreation waters; removal or destruction of warning signs.

(a) For the protection of the public health of swimmers and others who use the State's coastal fishing waters for recreational activities, the Department shall develop and implement a program to monitor the State's coastal fishing waters for contaminants. The monitoring program shall cover all coastal fishing waters up to the point where those waters are classified as inland fishing waters.

(b) The Marine Fisheries Commission shall adopt rules to provide for a water quality monitoring program for the coastal recreation waters of the State and to allow the Department to implement the federal Beaches Environmental Assessment and Coastal Health Act of 2000 (Pub. L. No. 106-284; 114 Stat. 870, 875; 33 U.S.C. §§ 1313, 1362). The rules shall address, but are not limited to, definitions, surveys, sampling, action standards, and posting of information on the water quality of coastal recreation waters.

(c) No person shall remove, destroy, damage, deface, mutilate, or otherwise interfere with any sign posted by the Department pursuant to subsection (b) of this section. No person, without

(*Limonium spp.*), Bulrush (*Scirpus spp.*), Saw Grass (*Cladium jamaicense*), Cattail (*Typha spp.*), Salt-Meadow Grass (*Spartina patens*), and Salt Reed-Grass (*Spartina cynosuroides*). (1969, c. 791, s. 1; 1971, c. 1159, s. 6; 1973, c. 476, s. 128; c. 1262, ss. 28, 86; c. 1331, s. 3; 1975, c. 456, ss. 1-7; 1977, c. 771, s. 4; 1979, c. 253, ss. 1, 2; 1983, c. 258, ss. 1-3; c. 442, s. 2; 1987, c. 827, s. 105; 1989, c. 727, s. 107; 1993, c. 539, s. 844; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 777, s. 6(a), (b); 1995, c. 509, s. 55.1(a)-(c); 2000-172, ss. 3.1, 3.2; 2002-126, ss. 29.2(h)-(j); 2011-398, s. 36; 2013-413, s. 55; 2014-115, s. 17; 2023-137, s. 10.5.)

§ 113-230. Orders to control activities in coastal wetlands.

(a) The Secretary, with the approval of the Coastal Resources Commission, may from time to time, for the purpose of promoting the public safety, health, and welfare, and protecting public and private property, wildlife and marine fisheries, adopt, amend, modify, or repeal orders regulating, restricting, or prohibiting dredging, filling, removing or otherwise altering coastal wetlands. In this section, the term "coastal wetlands" shall mean any marsh as defined in G.S. 113-229(n)(3), as amended, and such contiguous land as the Secretary reasonably deems necessary to affect by any such order in carrying out the purposes of this section.

(b) The Secretary shall, before adopting, amending, modifying or repealing any such order, hold a public hearing thereon in the county in which the coastal wetlands to be affected are located, giving notice thereof to interested State agencies and each owner or claimed owner of such wetlands by certified or registered mail at least 21 days prior thereto.

(c) Upon adoption of any such order or any order amending, modifying or repealing the same, the Secretary shall cause a copy thereof, together with a plan of the lands affected and a list of the owners or claimed owners of such lands, to be recorded in the register of deeds office in the county where the land is located, and shall mail a copy of such order and plan to each owner or claimed owner of such lands affected thereby.

(d) Any person, firm or corporation that violates any order issued under the provisions of this section shall be guilty of a Class 2 misdemeanor.

(e) The superior court shall have jurisdiction in equity to restrain violations of such orders.

(f) Any person having a recorded interest in or registered claim to land affected by any such order may, within 90 days after receiving notice thereof, petition the superior court to determine whether the petitioner is the owner of the land in question, and in case he is adjudged the owner of the subject land, whether such order so restricts the use of his property as to deprive him of the practical uses thereof and is therefore an unreasonable exercise of the police power because the order constitutes the equivalent of a taking without compensation. If the court finds the order to be an unreasonable exercise of the police power, as aforesaid, the court shall enter a finding that such order shall not apply to the land of the petitioner; provided, however, that such finding shall not affect any other land than that of the petitioner. The Secretary shall cause a copy of such finding to be recorded forthwith in the register of deeds office in the county where the land is located. The method provided in this subsection for the determination of the issue of whether any such order constitutes a taking without compensation shall be exclusive, and such issue shall not be determined in any other proceeding.

(g) After a finding has been entered that such order shall not apply to certain land as provided in the preceding subsection, the Department of Administration, upon the request of the Coastal Resources Commission, shall take the fee or any lesser interest in such land in the name of

the State by eminent domain under the provisions of Chapter 146 of the General Statutes and hold the same for the purposes set forth in this section.

(h) This section shall not repeal the powers, duties and responsibilities of the Department under the provisions of G.S. 113-229. (1971, c. 1159, s. 7; 1973, c. 1262, ss. 28, 86; 1977, c. 771, s. 4; 1979, c. 253, s. 4; 1989, c. 727, s. 108; 1993, c. 539, s. 845; 1994, Ex. Sess., c. 24, s. 14(c).)

§§ 113-231 through 113-240. Reserved for future codification purposes.

Article 18.

Commercial and Sports Fisheries Advisory Board.

§§ 113-241 through 113-250. Repealed by Session Laws 1973, c. 1262, ss. 28, 72.

Article 19.

Atlantic States Marine Fisheries Compact and Commission.

§ 113-251. Definition of terms.

As used in this Article:

- (1) "Commission" means the Atlantic States Marine Fisheries Commission.
- (2) "Commissioner" means a member of the Atlantic States Marine Fisheries Commission.
- (3) "Compact" means the Atlantic States Marine Fisheries Compact.
- (4) "Fisheries Director" means the Director of the Division of Marine Fisheries of the Department of Environmental Quality. (1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1989, c. 727, s. 109; 2003-92, s. 2; 2015-241, s. 14.30(u).)

§ 113-252. Atlantic States Marine Fisheries Compact and Commission.

The Governor of this State is hereby authorized and directed to execute a compact on behalf of the State of North Carolina with any one or more of the states of Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, South Carolina, Georgia, and Florida and with such other states as may enter into the compact, legally joining therein in the form substantially as follows:

ATLANTIC STATES MARINE FISHERIES COMPACT

The contracting states solemnly agree:

Article I

The purpose of this Compact is to promote the better utilization of the fisheries, marine, shell and anadromous, of the Atlantic seaboard by the development of a joint program for the promotion and protection of such fisheries, and by the prevention of the physical waste of the fisheries from any cause. It is not the purpose of this Compact to authorize the states joining herein to limit the production of fish or fish products for the purpose of establishing or fixing the price thereof, or creating and perpetuating monopoly.

Article II

This agreement shall become operative immediately as to those states executing it whenever any two or more of the states of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, South Carolina, North Carolina, Georgia and Florida have executed it in the form that is in accordance with the laws of the executing state and the Congress has given its consent. Any state contiguous with any of the aforementioned states and riparian upon waters frequented by anadromous fish, flowing into waters under the jurisdiction of any of the aforementioned states, may become a party hereto as hereinafter provided.

Article III

Each state joining herein shall appoint three representatives to a commission hereby constituted and designated as the Atlantic States Marine Fisheries Commission. One shall be the executive officer of the administrative agency of the state charged with the conservation of the fisheries resources to which this compact pertains. The second shall be a member of the legislature appointed by the Governor. The third shall be a citizen who has knowledge of and interest in marine fisheries issues, appointed by the Governor. This Commission shall be a body corporate, with the powers and duties set forth herein.

Article IV

The duty of the said Commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances and conditions as may be disclosed for bringing about the conservation and the prevention of the depletion and physical waste of the fisheries, marine, shell and anadromous, of the Atlantic seaboard. The Commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their respective jurisdictions to promote the preservation of those fisheries and their protection against overfishing, waste, depletion or any abuse whatsoever and to assure a continuing yield from the fisheries resources of the aforementioned states.

To that end the Commission shall draft and, after consultation with the advisory committee hereinafter authorized, recommend to the governors and legislatures of the various signatory states legislation dealing with the conservation of the marine, shell and anadromous fisheries of the Atlantic seaboard. The Commission shall more than one month prior to any regular meeting of the legislature in any signatory state, present to the governor of the state its recommendations relating to enactments to be made by the legislature of that state in furthering the intents and purposes of this Compact.

The Commission shall consult with and advise the pertinent administrative agencies in the states party hereto with regard to problems connected with the fisheries and recommend the adoption of such regulations as it deems advisable.

The Commission shall have power to recommend to the states party hereto the stocking of the waters of such states with fish and fish eggs, or joint stocking by some or all of the states party hereto, and when two or more of the states shall jointly stock waters the Commission shall act as the coordinating agency for such stocking.

Article V

The Commission shall elect from its number a chairman and a vice-chairman and shall appoint and at its pleasure remove or discharge such officers and employees as may be required to carry the provisions of this Compact into effect, and shall fix and determine their duties, qualifications and compensation. Said Commission shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business and may meet at any time or place but must meet at least once a year.

Article VI

No action shall be taken by the Commission in regard to its general affairs except by the affirmative vote of a majority of the whole number of compacting states present at any meeting. No recommendation shall be made by the Commission in regard to any species of fish except by the affirmative vote of a majority of the compacting states which have an interest in such species. The Commission shall define what shall be an interest.

Article VII

The Fish and Wildlife Service of the Department of the Interior of the government of the United States shall act as the primary research agency of the Atlantic States Marine Fisheries Commission, cooperating with the research agencies in each state for that purpose. Representatives of the said Fish and Wildlife Service shall attend the meetings of the Commission.

An advisory committee to be representative of the commercial fishermen and the saltwater anglers and such other interests of each state as the Commission deems advisable shall be established by the Commission as soon as practicable for the purpose of advising the Commission upon such recommendations as it may desire to make.

Article VIII

When any state other than those named specifically in Article II of this Compact shall become a party thereto for the purpose of conserving its anadromous fish in accordance with the provisions of Article II the participation of such state in the action of the Commission shall be limited to such species of anadromous fish.

Article IX

Nothing in this Compact shall be construed to limit the powers of any signatory state or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any signatory state imposing additional conditions and restrictions to conserve its fisheries.

Article X

Continued absence of representation or of any representative on the Commission from any state party hereto shall be brought to the attention of the governor thereof.

Article XI

The states party hereto agree to make annual appropriations to the support of the Commission in proportion to the primary market value of the products of their fisheries, exclusive of cod and haddock, as recorded in the most recently published reports of the Fish and Wildlife Service of the United States Department of the Interior, provided no state shall contribute less than two hundred dollars (\$200.00) per annum and the annual contribution of each state above the minimum shall be figured to the nearest one hundred dollars (\$100.00).

The compacting states agree to appropriate initially the annual amounts scheduled below, which amounts are calculated in the manner set forth herein, on the basis of the catch record of 1938. Subsequent budgets shall be recommended by a majority of the Commission and the cost thereof allocated equitably among the states in accordance with their respective interests and submitted to the compacting states.

Schedule of Initial Annual State Contributions

Maine	\$ 700
New Hampshire	200
Massachusetts	2300
Rhode Island	300
Connecticut	400
New York	1300
New Jersey	800
Delaware	200
Maryland	700
Virginia	1300
North Carolina	600
South Carolina	200
Georgia	200
Florida	1500

Article XII

This Compact shall continue in force and remain binding upon each compacting state until renounced by it. Renunciation of this Compact must be preceded by sending six months' notice in writing of intention to withdraw from the Compact to the other states party hereto. (1949, c. 1086, s. 1; 1965, c. 957, s. 18; 2003-92, s. 3.)

§ 113-253. Amendment to Compact to establish joint regulation of specific fisheries.

The Governor is authorized to execute on behalf of the State of North Carolina an amendment to the Compact set out in G.S. 113-252 with any one or more of the states of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, and Florida or such other states as may become party to that Compact for the purpose of permitting the states that ratify this amendment to establish joint regulation of specific fisheries common to those states through the Atlantic States Marine Fisheries Commission and their representatives on that body. Notice of intention to withdraw from this amendment shall be executed and transmitted by the Governor and shall be in

accordance with Article XII of the Atlantic States Marine Fisheries Compact and shall be effective as to this State with those states which similarly ratify this amendment. This amendment shall take effect as to this State with respect to such other of the aforesaid states as take similar action.

AMENDMENT NO. 1 OF THE ATLANTIC STATES MARINE FISHERIES COMPACT

The states consenting to this amendment agree that any two or more of them may designate the Atlantic States Marine Fisheries Commission as a joint regulatory agency with such powers as they may jointly confer from time to time for the regulation of the fishing operations of the citizens and vessels of such designating states with respect to specific fisheries in which such states have a common interest. The representatives of such states on the Atlantic States Marine Fisheries Commission shall constitute a separate section of such Commission for the exercise of the additional powers so granted, provided that the states so acting shall appropriate additional funds for this purpose. The creation of such section as a joint regulatory agency shall not deprive the states participating therein of any of their privileges or powers or responsibilities in the Atlantic States Marine Fisheries Commission under the general compact. (1949, c. 1086, s. 2; 1965, c. 957, s. 18.)

§ 113-254. North Carolina members of Commission.

(a) In pursuance of Article III of the Compact, there shall be three commissioners from North Carolina. The first commissioner shall be the Fisheries Director, ex officio. The term of this commissioner shall terminate at the time the commissioner ceases to hold office as the Fisheries Director. The successor to this commissioner shall be the commissioner's successor as Fisheries Director. The second commissioner shall be a legislator appointed by the Governor. The term of this commissioner shall terminate at the time the commissioner ceases to hold legislative office. This commissioner's successor shall be appointed by the Governor. The third commissioner from the State of North Carolina shall be a citizen of the State with knowledge of and interest in marine fisheries issues appointed by the Governor. The term of this commissioner shall be three years. This commissioner may be reappointed for successive terms and shall hold office until the commissioner's successor is appointed and qualified. A vacancy occurring in the office of this commissioner for any reason or cause shall be filled by appointment by the Governor for the unexpired term.

(b) The Fisheries Director may delegate to any deputy or other subordinate of the Fisheries Director the power to be present, participate, and vote as the Fisheries Director's representative or substitute at any meeting, hearing, or other proceeding of the Commission.

(c) Any commissioner may be removed from office by the Governor upon charges and after a hearing. (1949, c. 1086, s. 3; 1965, c. 957, s. 18; 1973, c. 1262, ss. 28, 86; 1977, c. 771, s. 4; 1987, c. 641, s. 9; 1989, c. 727, s. 110; 2003-92, s. 4.)

§ 113-255. Powers of Commission and commissioners.

There is hereby granted to the Commission and the commissioners thereof all the powers provided for in the said Compact and all the powers necessary or incidental to the carrying out of said Compact in every particular. All officers of the State of North Carolina are hereby authorized and directed to do all things falling within their respective provinces and jurisdiction necessary or incidental to the carrying out of said Compact in every particular; it being hereby declared to be the policy of the State of North Carolina to perform and carry out the said Compact and to accomplish

the purposes thereof. All officers, bureaus, departments and persons of and in the State government or administration of the State of North Carolina are hereby authorized and directed at convenient times and upon request of the said Commission to furnish the said Commission with information and data possessed by them or any of them and to aid said Commission by loan of personnel or other means lying within their legal rights respectively. (1949, c. 1086, s. 4; 1965, c. 957, s. 18.)

§ 113-256. Powers herein granted to Commission are supplemental.

Any powers herein granted to the Commission shall be regarded as in aid of and supplemental to and in no case a limitation upon any of the powers vested in said Commission by other laws of the State of North Carolina or by the laws of the states of Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, South Carolina, Georgia and Florida or by the Congress or the terms of said Compact. (1949, c. 1086, s. 5; 1965, c. 957, s. 18.)

§ 113-257. Report of Commission to Governor and legislature; recommendations for legislative action; examination of accounts and books by Auditor.

The Commission shall keep accurate accounts of all receipts and disbursements and shall report to the Governor and the legislature of the State of North Carolina on or before the tenth day of December in each year, setting forth in detail the transactions conducted by it during the 12 months preceding December 1 of that year and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes of the State of North Carolina which may be necessary to carry out the intent and purposes of the compact between the signatory states.

The Auditor of the State of North Carolina is hereby authorized and empowered from time to time to examine the accounts and books of the Commission, including its receipts, disbursements and such other items referring to its financial standing as such Auditor may deem proper and to report the results of such examination to the Governor of such State. (1949, c. 1086, s. 6; 1955, c. 236, s. 2; 1965, c. 957, s. 18.)

§ 113-258. Commission subject to provisions of State Budget Act.

The Atlantic States Marine Fisheries Commission of the State of North Carolina shall be subject to all the terms and provisions of the State Budget Act, Chapter 143C of the General Statutes of North Carolina. (1949, c. 1086, s. 7; 1955, c. 236, s. 1; 1965, c. 957, s. 18; 2006-203, s. 27.)

Article 19A.

Fishery Management Councils.

§ 113-259. North Carolina members of the South Atlantic Fishery Management Council.

(a) In pursuance of Section 302 of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1801, et seq., there shall be at least two members of the South Atlantic Fishery Management Council from the State of North Carolina.

(b) The first Council member shall be the principal State official with marine fishery management responsibility and expertise in the State, which official is the Director of the Division of Marine Fisheries of the Department or his designee.

(c) Pursuant to the enabling legislation, other members from the state of North Carolina are selected by the United States Secretary of Commerce from a list of qualified individuals submitted

by the Governor of the State. The list of nominees shall be compiled by the Marine Fisheries Commission and must be comprised of individuals who are knowledgeable and experienced with regard to the management, conservation, or commercial or recreational harvest of the fishery resources in the Atlantic Ocean seaward of the states of North Carolina, South Carolina, Georgia, and Florida. Prior to submission of the list of nominees, the Governor may consult with the Commission regarding additions to the list of nominees to be submitted. Should it be necessary for the Governor to submit additional nominees, the list of nominees shall be compiled by the Marine Fisheries Commission. (1987, c. 641, s. 18; 1989, c. 727, s. 111; 1998-225, s. 4.23.)

§ 113-260. North Carolina members of the Mid-Atlantic Fishery Management Council.

(a) In pursuance of Section 302 of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1801, et seq., there shall be at least two members of the Mid-Atlantic Fishery Management Council from the State of North Carolina.

(b) The first Council member shall be the principal State official with marine fishery management responsibility and expertise in the State, which official is the Director of the Division of Marine Fisheries of the Department or his designee.

(c) Pursuant to the enabling legislation, other members from the State of North Carolina are selected by the United States Secretary of Commerce from a list of qualified individuals submitted by the Governor of the State. The list of nominees shall be compiled by the Marine Fisheries Commission and must be comprised of individuals who are knowledgeable and experienced with regard to the management, conservation, or commercial or recreational harvest of the fishery resources in the Atlantic Ocean seaward of the states of New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, and North Carolina. Prior to submission of the list of nominees, the Governor may consult with the Commission regarding additions to the list of nominees to be submitted. Should it be necessary for the Governor to submit additional nominees, the list of nominees shall be compiled by the Marine Fisheries Commission. (1998-225, s. 4.23.)

§§ 113-260.1 through 113-260.5. Reserved for future codification purposes.

Article 20.

Miscellaneous Regulatory Provisions.

§ 113-261. Taking fish and wildlife for scientific purposes; permits to take in normally unauthorized manner; cultural and scientific operations.

(a) The Department, the Wildlife Resources Commission, and agencies of the United States with jurisdiction over fish and wildlife are hereby granted the right to take marine, estuarine, and wildlife resources within the State, to conduct fish cultural operations and scientific investigations in the several waters of North Carolina, to survey fish and wildlife populations in the State, to conduct investigations to determine the status and requirements for survival of resident species of fish and wildlife, to propagate animals, birds, and fish, and to erect fish hatcheries and fish propagating plants without regard to any licensing or permit requirements of this Subchapter.

(b) The Department with respect to fish in coastal fishing waters and the Wildlife Resources Commission with respect to wildlife may provide for the issuance of permits, on such terms as they deem just and in the best interest of conservation, authorizing persons to take such fish or wildlife through the use of drugs, poisons, explosives, electricity, or any other generally prohibited manner. Such permits need not be restricted solely to victims of depredations or to scientific or educational institutions, but should be issued only for good cause. No permit to take

wildlife other than fish by means of poison may be issued, however, unless the provisions of Article 22A are met.

(c) The Department, the Wildlife Resources Commission, and agencies of the United States with jurisdiction over fish and wildlife may, as necessary in their legitimate operations, take fish and wildlife in a manner generally prohibited by this Subchapter or by rules made under the authority of this Subchapter. (1915, c. 84, s. 7; C.S., s. 1886; 1965, c. 957, s. 2; 1973, c. 1262, s. 18; 1979, c. 830, s. 1; 1987, c. 827, s. 98.)

§ 113-262. Taking fish or wildlife by poisons, drugs, explosives or electricity prohibited; exceptions; possession of illegally killed fish or wildlife prohibited.

(a) Except as otherwise provided in this Subchapter, or in rules permitting use of electricity to take certain fish, it is a Class 2 misdemeanor to take any fish or wildlife through the use of poisons, drugs, explosives, or electricity. This subsection does not apply to any person lawfully using any poison or pesticide under the Structural Pest Control Act of North Carolina of 1955, as amended, or the North Carolina Pesticide Law of 1971, as amended.

(b) Except under a valid permit it is unlawful to possess any fish or wildlife:

- (1) Bearing evidence of having been taken in violation of subsection (a); or
- (2) With knowledge or reason to believe that the fish or wildlife was taken in violation of subsection (a). (1883, c. 290; Code, s. 1094; Rev., s. 3417; C.S., ss. 1968, 2124; 1927, c. 107; 1935, c. 486, ss. 18-20; 1939, c. 235, s. 1; 1949, c. 1205, ss. 2, 3; 1953, c. 1134; 1955, c. 104; c. 1053, ss. 1, 3, 4; 1957, c. 1056; 1959, c. 207; c. 500; 1961, c. 1182; 1963, c. 381; c. 697, ss. 1, 3 1/2; 1965, c. 904, s. 1; c. 957, s. 2; 1967, c. 728, s. 1; c. 858, s. 1; c. 1149, s. 1.5; 1969, c. 75; c. 140; 1971, c. 439, ss. 1-3; c. 449, s. 1; c. 461; c. 648, s. 1; c. 899, s. 1; 1973, c. 1096; c. 1210, ss. 1-3, 5; c. 1262, s. 18; 1975, c. 669; c. 728; 1977, c. 493; c. 794, s. 4; 1979, c. 830, s. 1; 1987, c. 827, s. 98; 1993, c. 539, s. 846; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 113-263. Inspecting plans and specifications of dams.

The Department and the Wildlife Resources Commission, in addition to other agencies primarily responsible, may inspect the plans and specifications of all dams proposed to be built, in North Carolina or elsewhere within the United States, the design or proposed mode of construction of which may have an adverse effect upon fish within the State. The Department or the Wildlife Resources Commission, as the case may be, may be heard before the appropriate agency charged with approving said plans and specifications, and due consideration shall be given to said Department or Wildlife Resources Commission in the approval or disapproval of the plans and specifications of proposed dams by the agencies so charged with said duty. (1965, c. 957, s. 2; 1973, c. 1262, s. 18.)

§ 113-264. Regulatory power over agency property; public hunting opportunities; scheduling of managed hunts.

(a) The Department and the Wildlife Resources Commission are granted the power by rule to license, regulate, prohibit, or restrict the public as to use and enjoyment of, or harm to, any property of the Department or the Wildlife Resources Commission, and may charge the public reasonable fees for access to or use of such property. "Property" as the word is used in this section is intended to be broadly interpreted and includes lands, buildings, vessels, vehicles, equipment,

markers, stakes, buoys, posted signs and other notices, trees and shrubs and artificial constructions in boating and fishing access areas, game lands, wildlife refuges, public waters, public mountain trout waters, and all other real and personal property owned, leased, controlled, or cooperatively managed by either the Department or the Wildlife Resources Commission.

(a1) Every wildlife protector and every law enforcement officer of this State and its subdivisions shall have the authority within his or her established jurisdiction to enforce the rules promulgated pursuant to the power granted by this section regarding the willful removal of, damage to, or destruction of any property of the Department or the Wildlife Resources Commission.

(a2) To the extent that subsection (a1) of this section conflicts with any provision of any local act, subsection (a1) of this section prevails.

(b) Unless a different level of punishment is elsewhere set out, willful removal of, damage to, or destruction of any property of the Department or the Wildlife Resources Commission is a Class 1 misdemeanor.

(c) The Wildlife Resources Commission may cooperate with private landowners in the establishment of public hunting grounds. It may provide for the posting of these areas and of restricted zones within them, require that authorized hunters obtain written permission from the owner to hunt, enforce general laws concerning trespass by hunters and concerning damage or injurious activities by hunters and by others carrying weapons on or discharging weapons across public hunting grounds or restricted zones.

(d) The Wildlife Resources Commission may schedule managed hunting opportunities for any species of wildlife administered through permits. Permit recipients shall be selected at random by computer. The Wildlife Resources Commission may require by rule that an applicant 16 years of age or older have the required hunting license before the drawing for the hunt, and that an applicant less than 16 years of age apply as a member of a party that includes a properly licensed adult if the young applicant does not have the proper hunting license. When licenses are required prior to the drawing, all applications shall be screened for compliance. A nonrefundable fee of eight dollars (\$8.00) will be required of each applicant.

(d1) Repealed by Session Laws 2022-74, s. 15.3(c), effective July 1, 2023.

(e) A wildlife protector or law enforcement officer of this State or its subdivisions may have a vehicle towed at a Commission-owned or operated public boating access area if the vehicle:

- (1) Is parked in an area other than one designated for parking; or
- (2) Is left by an individual for a purpose other than launching, operating, or retrieving a vessel. (1965, c. 957, s. 2; 1973, c. 1262, ss. 18, 28; 1977, c. 771, s. 4; 1979, c. 830, s. 1; 1983, c. 403; 1985 (Reg. Sess., 1986), c. 996, s. 2; 1987, c. 827, s. 98; 1989, c. 221; c. 642, s. 1; 1993, c. 539, s. 847; 1994, Ex. Sess., c. 24, s. 14(c); 2005-82, s. 1; 2005-164, s. 2; 2018-90, s. 1; 2022-74, s. 15.3(c).)

§ 113-265. Obstructing or polluting flow of water into hatchery; throwing fish offal into waters.

(a) No person may obstruct, pollute, or diminish the natural flow of water into or through any fish hatchery in violation of the requirements of the Environmental Management Commission.

(b) It is unlawful for any person to throw or cause to be thrown into the channel of any navigable waters fish offal in any quantity likely to hinder or prevent the passage of fish along such channel. The Marine Fisheries Commission and the Wildlife Resources Commission may by rule

impose further restrictions upon the throwing of fish offal in any coastal fishing waters or inland fishing waters respectively.

(c) to (e) Repealed by Session Laws 1987, c. 636, s. 2. (1883, c. 137, s. 5; Code, ss. 3385, 3386, 3389, 3407, 3418; Rev., ss. 2444, 2465, 2478; C.S., ss. 1969, 1971, 1972; 1959, c. 405; 1965, c. 957, s. 2; 1971, c. 690, s. 4; 1973, c. 1262, ss. 18, 28; 1985 (Reg. Sess., 1986), c. 996, s. 3; 1987, c. 636, s. 2; c. 827, s. 98.)

§ 113-266. Interference with artificial reef marking devices.

It shall be a Class 1 misdemeanor for any person to destroy, injure, relocate, or remove any navigational aids, buoys, markers, or other devices lawfully set out by the Division of Marine Fisheries in connection with the marking of any artificial reef in the coastal waters of the State and in the Atlantic Ocean to the seaward extent of the State's jurisdiction as now or hereafter defined. (1985 (Reg. Sess., 1986), c. 996, s. 1; 1993, c. 539, s. 848; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 113-267. Replacement costs of marine, estuarine, and wildlife resources; rules authorized; prima facie evidence.

To provide information to the courts and other officials taking action under G.S. 15A-1343(b1)(5), under G.S. 143-215.3(a)(7), or under any other pertinent authority of law, the Marine Fisheries Commission and the Wildlife Resources Commission are authorized to adopt rules setting forth the factors that should be considered in determining the replacement costs of fish and wildlife and other marine, estuarine, and wildlife resources that have been taken, injured, removed, harmfully altered, damaged, or destroyed. The Marine Fisheries Commission and the Wildlife Resources Commission may make similar rules respecting costs of investigations required by G.S. 143-215.3(a)(7) or which are made pursuant to a court order. For common offenses resulting in the destruction of marine, estuarine, and wildlife resources the Marine Fisheries Commission and the Wildlife Resources Commission may adopt schedules of costs which reasonably state the likely replacement costs and necessary investigative costs when appropriate. Rules of the Marine Fisheries Commission and the Wildlife Resources Commission stating scheduled costs or cost factors must be treated as prima facie evidence of the actual costs, but do not prevent a court or jury from examining the reasonableness of the rules or from assessing the special factors in a case which may make the true costs either higher or lower than the amount stated in the rules. The term "replacement costs" must be broadly construed to include indirect costs of replacement through habitat improvement or restoration, establishment of sanctuaries, and other recognized conservation techniques when direct stocking or replacement is not feasible. (1979, c. 830, s. 1; 1985, c. 509, s. 7; 1987, c. 827, s. 98.)

§ 113-268. Injuring, destroying, stealing, or stealing from nets, seines, buoys, pots, etc.

(a) It is unlawful for any person without the authority of the owner of the equipment to take fish from nets, traps, pots, and other devices to catch fish which have been lawfully placed in the open waters of the State.

(b) It is unlawful for any master or other person having the management or control of a vessel in the navigable waters of the State to willfully, wantonly, and unnecessarily do injury to any seine, net or pot which may lawfully be hauled, set, or fixed in such waters for the purpose of taking fish except that a net set across a channel may be temporarily moved to accommodate persons engaged in drift netting, provided that no fish are removed and no damage is done to the net moved.

(c) It is unlawful for any person to willfully steal, destroy, or injure any buoys, markers, stakes, nets, pots, or other devices on property lawfully set out in the open waters of the State in connection with any fishing or fishery.

(d) Violation of subsections (a), (b), or (c) is a Class A1 misdemeanor.

(e) The Department may, either before or after the institution of any other action or proceeding authorized by this section, institute a civil action for injunctive relief to restrain a violation or threatened violation of subsections (a), (b), or (c) of this section pursuant to G.S. 113-131. The action shall be brought in the superior court of the county in which the violation or threatened violation is occurring or about to occur and shall be in the name of the State upon the relation of the Secretary. The court, in issuing any final order in any action brought pursuant to this subsection may, in its discretion, award costs of litigation including reasonable attorney and expert-witness fees to any party. (1987, c. 636, s. 1; 1989, c. 727, s. 112; 1993, c. 539, s. 849; 1994, Ex. Sess., c. 24, s. 14(c); 1998-225, s. 3.9.)

§ 113-269. Robbing or injuring hatcheries and other aquaculture operations.

(a) The definitions established in G.S. 106-758 are incorporated by reference into this section. For the purposes of this section, a shellfish lease issued pursuant to G.S. 113-202 is defined as an aquaculture facility only when it has been amended pursuant to G.S. 113-202.1 to authorize use of the water column and when it is or has been regularly posted and identified in accordance with the rules of the Marine Fisheries Commission.

(b) It is unlawful for any person without the authority of the owner of an aquaculture facility to take fish or aquatic species being cultivated or reared by the owner from an aquaculture facility.

(c) It is unlawful for any person to receive or possess fish or aquatic species stolen from an aquaculture facility while knowing or having reasonable grounds to believe that the fish or aquatic species are stolen.

(d) It is unlawful for any person to willfully destroy or injure an aquaculture facility or aquatic species being reared in an aquaculture facility.

(e) Violation of subsections (b) or (c) for fish or aquatic species valued at more than four hundred dollars (\$400.00) is punishable under G.S. 14-72. Violation of subsections (b) or (c) for fish or aquatic species valued at four hundred dollars (\$400.00) or less is a Class 1 misdemeanor.

(f) Violation of subsection (d) is a Class 1 misdemeanor.

(g) In deciding to impose any sentence other than an active prison sentence, the sentencing judge shall consider and may require, in accordance with G.S. 15A-1343, restitution to the victim for the amount of damage to the aquaculture facility or aquatic species or for the value of the stolen fish or aquatic species.

(h) The district attorney shall dismiss any case brought pursuant to subsections (b) and (c) if defendant produces a notarized written authorization for taking fish or aquatic species from the aquaculture facility or if the fish or aquatic species taken from a shellfish lease aquaculture facility was not a shellfish authorized for cultivation on the lease. (1989, c. 281, s. 1; 1993, c. 539, ss. 850, 851; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 113-270. Use of oyster shells by landscape contractors prohibited.

(a) No landscape contractor shall use oyster shells as a ground cover.

(b) Enforcement of the prohibition set forth in this section shall be under the jurisdiction of the Marine Fisheries Commission.

(c) For purposes of this section, landscape contractor shall have the definition set forth in G.S. 89D-11. (2015-241, s. 14.7(a).)

Article 21.

Licenses and Permits Issued by the Wildlife Resources Commission.

§ 113-270.1. License agents.

(a) The Wildlife Resources Commission may by rule provide for the appointment of persons as license agents to sell licenses and permits that the Commission is authorized to issue by this Subchapter or by any other provisions of law. To facilitate the convenience of the public, the efficiency of administration, the need to keep statistics and records affecting the conservation of wildlife resources, boating, water safety, and other matters within the jurisdiction of the Wildlife Resources Commission, and the need to issue licenses and permits containing special restrictions, the Wildlife Resources Commission may issue licenses and permits in any particular category through:

- (1) License agents.
 - (1a) A contracted licensing system vendor.
- (2) The Wildlife Resources Commission's headquarters.
- (3) Employees of the Wildlife Resources Commission.
- (4) Two or more such sources simultaneously.

(a1) When there are substantial reasons for differing treatment, the Wildlife Resources Commission may issue a type of license or permit by one method in one locality and by another method in another locality.

(b) License agents may charge a fee of up to four dollars (\$4.00) per transaction for licenses, applications, or permits processed by the agent. The Commission may charge a fee of up to four dollars (\$4.00) per transaction for licenses, permits, and applications sold online or by other electronic means or directly to the public. This fee is in addition to any transaction fee charged by a contracted licensing system vendor.

(b1) When licenses or permits are to be issued by license agents as provided by subsection (a) of this section, the Wildlife Resources Commission may adopt rules to provide for any of the following:

- (1) Qualifications of the license agents.
- (2) Duties of the license agents.
- (3) Methods and procedures to ensure accountability and security for proceeds and unissued licenses and permits.
- (4) Types and amounts of evidence that a license agent must submit to relieve the agent of responsibility for losses due to occurrences beyond the control of the agent.
- (5) Any other reasonable requirement or condition that the Wildlife Resources Commission deems necessary to expedite and control the issuance of licenses and permits by license agents.

(b2) The Wildlife Resources Commission may adopt rules to authorize the Executive Director to take any of the following actions related to license agents:

- (1) Select and appoint license agents in areas most convenient for the sale of licenses and permits.
- (2) Limit the number of license agents in an area if necessary for efficiency of operation.

- (3) Require prompt and accurate reporting and remittance of public funds or documents by license agents.
- (4) Conduct periodic and special audits of accounts.
- (5) Suspend or terminate the authorization of any license agent found to be noncompliant with rules adopted by the Wildlife Resources Commission or when State funds or property are reasonably believed to be in jeopardy.
- (6) Require the immediate surrender of all equipment, forms, licenses, permits, records, and State funds and property, issued by or belonging to the Wildlife Resources Commission, in the event of the termination of a license agent.

(b3) The Wildlife Resources Commission is exempt from the contested case provisions of Chapter 150B of the General Statutes with respect to determinations of whether to authorize or terminate the authority of a person to sell licenses and permits as a license agent of the Wildlife Resources Commission.

(b4) If any check or bank account draft of any license agent for the issuance of licenses or permits is returned by the banking facility upon which the same is drawn for lack of funds, the license agent is liable to the Commission or contracted licensing system vendor for a penalty of five percent (5%) of the amount of the check or bank account draft, but in no event shall the penalty be less than five dollars (\$5.00) or more than two hundred dollars (\$200.00). License agents shall be assessed a penalty of twenty-five percent (25%) of their issuing fee on all remittances to the Commission or contracted licensing system vendor after the fifteenth day of the month immediately following the month of sale.

(b5) A contracted licensing system vendor may charge a fee of:

- (1) Up to three dollars (\$3.00) per transaction for licenses, permits, applications, or merchandise sold online or by other electronic means.
- (2) Up to one dollar (\$1.00) per transaction for licenses, permits, applications, or merchandise sold by a license agent or directly through the Commission.
- (3) Up to five dollars (\$5.00) per transaction for licenses, permits, applications, or merchandise sold through the contracted licensing system vendor call center.

(b6) Neither the Commission nor a contracted licensing system vendor shall charge a fee for federal Harvest Information Program (HIP) certification, big game harvest report cards for lifetime license holders, exempt landowners, persons of less than 16 years of age, or for any other license transactions for which there is no charge authorized by applicable law.

(c) Repealed by Session Laws 2005-455, s. 3.2. See notes for contingent effective date.

(d) It is a Class 1 misdemeanor for a license agent to do any of the following:

- (1) Withhold or misappropriate funds from the sale of licenses or permits.
- (2) Falsify records of licenses or permits sold.
- (3) Willfully and knowingly assist or allow a person to obtain a license or permit for which the person is ineligible.
- (4) Willfully issue a backdated license or permit.
- (5) Willfully include false information or omit material information on records, licenses, or permits regarding either:
 - a. A person's entitlement to a particular license or permit.
 - b. The applicability or term of a particular license or permit.
- (6) Charge or accept any additional fee, remuneration, or other item of value in association with any activity set out in subdivisions (1) through (5) of this subsection.

(e) through (j) Repealed by Session Laws 2005-455, s. 3.2. See notes for contingent effective date. (1961, c. 352, ss. 4, 9; 1979, c. 830, s. 1; 1985, c. 791, s. 34; 1987, c. 827, s. 98; 1993, c. 539, ss. 852, 853; 1994, Ex. Sess., c. 24, s. 14(c); 2005-455, s. 3.2; 2013-283, s. 15; 2022-74, s. 15.3(d).)

§ 113-270.1A. Hunter safety course required.

(a) Except as provided in subsections (a1) and (d) of this section, on or after July 1, 2013, a person, regardless of age, may not procure a hunting license in this State without producing a hunter education certificate of competency or one of the following issued by the Wildlife Resources Commission:

- (1) A North Carolina hunting heritage apprentice permit.
- (2) A hunting license issued prior to July 1, 2013.

(a1) A person who qualifies for a disabled license under G.S. 113-270.1C(b)(5) or (6), G.S. 113-270.1D(b)(7) or (8), or G.S. 113-351(c)(3)f. or g. need not comply with the requirements of subsection (a) of this section in order to receive that license, so long as the person does not make use of the license unless:

- (1) The disabled hunter is accompanied by an adult of at least 18 years of age who is licensed to hunt; and
- (2) The licensed adult maintains a proximity to the disabled hunter which enables the adult to monitor the activities of the disabled hunter by remaining within sight and hearing distance at all times without the use of electronic devices.

(b) The Wildlife Resources Commission shall institute and coordinate a statewide course of instruction in hunter ethics, wildlife laws and regulations, and competency and safety in the handling of firearms, and in so doing, may cooperate with any political subdivision, or with any reputable organization. The course of instruction shall be conducted as follows:

- (1) The Wildlife Resources Commission shall designate those persons or agencies authorized to give the course of instruction, and this designation shall be valid until revoked by the Commission. Those designated persons shall submit to the Wildlife Resources Commission validated listings naming all persons who have successfully completed the course of instruction.
- (2) The Wildlife Resources Commission may conduct the course in hunter education, using Commission personnel or Commission-approved persons.
- (3) The Wildlife Resources Commission shall issue a certificate of competency and safety to each person who successfully completes the course of instruction, and the certificate shall be valid until revoked by the Commission.
- (4) Any similar certificate issued outside the State by a governmental agency, shall be accepted as complying with the requirements of subsection (a) above, if the privileges are reciprocal for North Carolina residents.
- (5) The Wildlife Resources Commission shall adopt rules and regulations to provide for the course of instruction and the issuance of the certificates consistent with the purpose of this section.

(c) On or after July 1, 2013, any person who obtains a hunting license by presenting a fictitious certificate of competency or who attempts to obtain a certificate of competency or hunting license through fraud shall have his hunting privileges revoked by the Wildlife Resources Commission for a period not to exceed one year.

(d) Notwithstanding the provisions of subsection (a) of this section, the lifetime licenses provided for in G.S. 113-270.1D(b)(1), (2), (3), (4), and (5), and 113-270.2(c)(2), and 113-351(c)(3) may be purchased by or in the name of persons who have not obtained a hunter education certificate of competency, subject to the requirements of this subsection. Pending satisfactory completion of the hunter education course, persons who possess one of the lifetime licenses specified in this subsection may exercise the privileges of the lifetime license only when accompanied by an adult of at least 18 years of age who is licensed to hunt in this State. For the purpose of this section, "accompanied" means that the licensed adult maintains a proximity that enables the adult to monitor the activities of the hunter by remaining within sight and hearing distance at all times without use of electronic devices. (1989, c. 324, s. 1; 1991, c. 70, s. 1; 1997-365, s. 1; 1999-456, s. 27; 2005-438, s. 1; 2013-63, s. 1.)

§ 113-270.1B. License required to hunt, fish, or trap; fees set by Commission.

(a) Except as otherwise specifically provided by law, no person may hunt, fish, trap, or participate in any other activity regulated by the Wildlife Resources Commission for which a license is provided by law without having first procured a current and valid license authorizing the activity.

(b) Except as indicated otherwise, all licenses, permits, stamps, and certifications are valid from the date of issue for a period of 12 months.

(c) As used in this section, the term "effective date" means the later of:

(1) The date of purchase of a new license.

(2) The first day after the expiration of a currently valid license of the same type held by the licensee.

(d) Repealed by Session Laws 2022-74, s. 15.3(e), effective July 1, 2023.

(e) The Wildlife Resources Commission shall adopt rules to establish fees for all licenses, permits, stamps, and certifications issued and administered by the Wildlife Resources Commission, except those specified in G.S. 113-173. No rule may increase a fee in excess of the total increase in the Consumer Price Index for All Urban Consumers, rounded up to the next whole dollar, over the period of time since the last fee change.

The statutory fees for the hunting, fishing, trapping, and activity licenses issued and administered by the Wildlife Resources Commission shall expire when the rules adopted pursuant to this subsection become effective. (1993 (Reg. Sess., 1994), c. 684, s. 1; 2012-81, s. 1; 2013-283, ss. 16, 20(b), (c); 2017-57, s. 13A.3; 2019-204, s. 6(a); 2022-74, s. 15.3(e).)

§ 113-270.1C. Combination hunting and inland fishing licenses.

(a) The combination hunting and inland fishing licenses set forth in subsection (b) of this section entitle the licensee to take all wild birds and wild animals, other than big game and waterfowl, by all lawful methods, except trapping, and in all open seasons, and to fish with hook and line in all inland and joint fishing waters, and public mountain trout waters, but does not entitle the licensee to engage in fishing in coastal fishing waters. A combination hunting and inland fishing license issued under this section entitles the licensee to access and use Wildlife Resources Commission Property.

(b) Combination hunting and inland fishing licenses issued by the Wildlife Resources Commission are:

(1) Resident Annual Combination Hunting and Inland Fishing License – \$35.00.
This license shall be issued only to an individual resident of the State.

- (2), (3) Repealed by Session Laws 1997-326, s. 2.
- (4) Repealed by Session Laws 2005-455, s. 1.6, effective January 1, 2007.
- (5) Resident Disabled Veteran Lifetime Combination Hunting and Inland Fishing License – \$10.00. This license shall be issued only to an individual who is a resident of the State and who is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans Affairs. This license remains valid for the lifetime of the licensee.
- (6) Resident Totally Disabled Lifetime Combination Hunting and Inland Fishing License – \$10.00. This license shall be issued only to an individual who is a resident of the State and who is totally and permanently disabled as determined by the Social Security Administration. This license remains valid for the lifetime of the licensee. (1993 (Reg. Sess., 1994), c. 684, s. 1; 1997-326, ss. 2, 3; 2001-91, s. 1; 2005-455, s. 1.6; 2013-283, s. 1; 2019-204, s. 6(b).)

§ 113-270.1D. Sportsman licenses.

(a) Annual Sportsman License – \$50.00. This license shall be issued only to an individual resident of the State and entitles the licensee to take all wild animals and wild birds, including waterfowl, by all lawful methods, except trapping, in all open seasons, and to fish with hook and line for all fish in all inland and joint fishing waters, including public mountain trout waters, but does not entitle the licensee to engage in fishing in coastal waters. An annual sportsman license issued under this subsection entitles the licensee to access and use Wildlife Resources Commission Property.

(b) Lifetime Sportsman Licenses. – Lifetime sportsman licenses are valid for the lifetime of the licensees. Lifetime sportsman licenses entitle the licensees to take all wild animals and wild birds by all lawful methods, except trapping, in all open seasons, and to fish with hook and line for all fish in all inland and joint fishing waters, including public mountain trout waters, but do not entitle the licensee to engage in fishing in coastal fishing waters, except if the license was purchased before January 1, 2006, pursuant to G.S. 113-174.2(d)(2). A lifetime sportsman license issued under this subsection entitles the licensee to access and use Wildlife Resources Commission Property. Lifetime sportsman licenses issued by the Wildlife Resources Commission are:

- (1) Infant Lifetime Sportsman License – \$200.00. This license shall be issued only to an individual under one year of age.
- (2) Youth Lifetime Sportsman License – \$350.00. This license shall be issued only to an individual under 12 years of age.
- (3) Adult Resident Lifetime Sportsman License – \$500.00. This license shall be issued only to an individual resident of the State who is 12 years of age or older but younger than 70 years of age. Except for individuals qualifying for a discounted license pursuant to G.S. 113-276(o), a resident who is 50 years of age or older but younger than 70 years of age shall be eligible to purchase this license at fifty percent (50%) of the applicable fee.
- (4) Nonresident Lifetime Sportsman License – \$1,200. This license shall be issued only to an individual nonresident of the State.
- (5) Age 70 Resident Lifetime Sportsman License – \$15.00. This license shall be issued only to an individual resident of the State who is at least 70 years of age.
- (6) Repealed by Session Laws 2005-455, s. 1.7. effective January 1, 2007.

- (7) Resident Disabled Veteran Lifetime Sportsman License – \$100.00. This license shall be issued only to an individual who is a resident of the State and who is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans Affairs or as established by rules of the Wildlife Resources Commission.
- (8) Resident Totally Disabled Lifetime Sportsman License – \$100.00. This license shall be issued only to an individual who is a resident of the State and who is totally and permanently disabled as determined by the Social Security Administration or as established by rules of the Wildlife Resources Commission.
- (9) Fallen Wildlife Officers Memorial Lifetime Sportsman License. – This license shall also be known as the John Oliver Edwards Memorial Lifetime Sportsman License and shall be issued free of charge only to a surviving spouse, child, grandchild, or great-grandchild of a wildlife enforcement officer killed in the line of duty. (1993 (Reg. Sess., 1994), c. 684, s. 1; 1997-326, s. 1; 1999-339, s. 4; 2005-455, s. 1.7; 2013-283, s. 2; 2014-100, s. 14.25(e); 2018-82, s. 1; 2019-204, s. 6(c); 2021-160, s. 8(a).)

§ 113-270.2. Hunting licenses.

(a) The hunting licenses set forth in subdivisions (1), (2), (5), (6), and (7) of subsection (c) of this section entitle the holder to take wild birds and wild animals, other than big game and waterfowl, by all lawful methods, except trapping, and in all open seasons. Unless otherwise specified, a hunting license issued under this subsection entitles the licensee to access and use Wildlife Resources Commission Property. The comprehensive hunting licenses of subdivisions (2) and (5) of subsection (c) of this section further entitle the holder to take big game and waterfowl.

(b) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 684, s. 2.

(c) The hunting licenses issued by the Wildlife Resources Commission are as follows:

- (1) Resident State Hunting License – \$25.00. This license shall be issued only to an individual resident of the State.
- (2) Lifetime Resident Comprehensive Hunting License – \$250.00. This license shall be issued only to an individual resident of the State and is valid for the lifetime of the holder.
- (3) Repealed by Session Laws 2013-283, s. 3, effective August 1, 2014.
- (4) Controlled Hunting Preserve Hunting License – \$20.00. This license shall be issued to an individual resident or nonresident to take only foxes, coyotes, rabbits, and domestically raised chukars, Hungarian partridges, and game birds, other than wild turkey, only within a controlled hunting preserve licensed and operated in accordance with G.S. 113-273(g) and implementing rules of the Wildlife Resources Commission. This license does not authorize access to or use of Wildlife Resources Commission Property.
- (5) Resident Annual Comprehensive Hunting License – \$36.00. This license shall be issued only to an individual resident of the State.
- (6) Nonresident State Hunting License. This license shall be issued only to a nonresident. The nonresident State hunting licenses issued by the Wildlife Resources Commission are:
 - a. Season License – \$100.00.

- b. Ten-Day License – \$80.00. This license is valid for the 10 consecutive dates indicated on the license.
- (7) Falconry Hunting License – \$25.00. This license shall be issued to an individual resident or nonresident and authorizes taking wildlife by means of falconry. In addition to a falconry hunting license, the license holder shall also possess a valid falconry license as described in G.S. 113-270.3(b)(4). This license expires June 30.

(d) One dollar (\$1.00) of the proceeds received from the sale of each nonresident hunting license sold pursuant to subdivision (6) of subsection (c) of this section shall be set aside by the Wildlife Resources Commission and contributed to a proper agency or agencies in the United States for expenditure in Canada for the restoration and management of migratory waterfowl. (1935, c. 486, s. 12; 1937, c. 45, s. 1; 1945, c. 617; 1949, c. 1203, s. 1; 1957, c. 849, s. 1; 1959, c. 304; 1961, c. 384, s. 1; 1967, c. 790; 1969, c. 1030; c. 1042, ss. 1-5, 13; 1971, c. 242; c. 282, s. 1; c. 705, ss. 1, 2; 1973, c. 1262, s. 18; 1975, c. 197, ss. 1-4, 6, 8; c. 673, s. 2; 1977, c. 658; 1979, c. 830, s. 1; 1979, 2nd Sess., c. 1178, s. 1; 1981, c. 482, s. 4; 1981 (Reg. Sess., 1982), c. 1201, s. 1; 1983, c. 140, s. 1; 1987, c. 156, ss. 1, 2; 1987, c. 827, s. 98; 1989, c. 324, s. 2; c. 616, s. 2; 1989 (Reg. Sess., 1990), c. 909, s. 1; 1993 (Reg. Sess., 1994), c. 684, s. 2; 1999-339, s. 5; 2001-91, s. 2; 2013-283, s. 3; 2019-204, s. 6(d).)

§ 113-270.2A. Voluntary contribution to hunter education program.

(a) A person applying for a hunting license may make a voluntary contribution to the Wildlife Resources Commission for the purpose of funding a hunter education program.

(b) The Wildlife Resources Commission shall devise administrative procedure for the collection of all contributions donated pursuant to the provisions of this act and shall collect and use the contributions to fund and provide for a hunter education program. (1979, c. 764, ss. 1, 2; 1987, c. 827, s. 98; 2013-63, s. 2.)

§ 113-270.2B. Voluntary migratory waterfowl conservation print.

(a) The Wildlife Resources Commission has exclusive production rights for the voluntary migratory waterfowl conservation print, and is authorized to adopt policy for the annual selection of an appropriate design for the print and to have the print produced for sale. This policy may include ownership rights of the original art selected; arrangements for the reproduction, distribution and marketing of prints; and provisions for sharing the resulting revenues.

(b) The proceeds accruing to the Commission from its share of the voluntary migratory waterfowl conservation prints shall be used by the Commission for the benefit of migratory waterfowl management in North Carolina. (1981 (Reg. Sess., 1982), c. 1269; 1987, c. 452, s. 1; c. 827, s. 98.)

§ 113-270.3. Special activity licenses; big game kill reports.

(a) In addition to any hunting, trapping, or fishing license that may be required pursuant to G.S. 113-270.1B(a), individuals engaging in specially regulated activities must have the appropriate special activity license and stamp prescribed in this section before engaging in the regulated activity.

(b) The special activity licenses and stamp issued by the Wildlife Resources Commission are as follows:

- (1) Resident Big Game Hunting License – \$13.00. This license shall be issued only to an individual resident of the State and entitles the holder to take big game by all lawful methods and during all open seasons.
- (1a) Nonresident Bear Hunting License – \$225.00. This license is valid for use only by an individual within the State and must be procured before taking any bear within the State. Notwithstanding any other provision of law, a nonresident individual may not take any bear within the State without procuring this license; provided, that neither those persons who have a nonresident lifetime sportsman combination license purchased prior to May 24, 1994, nor those persons who have obtained a lifetime license established by G.S. 113-270.1D(b)(9) shall have to purchase this license. This license expires June 30.
- (1b) Bear Management Stamp – \$10.00. This electronically generated stamp must be procured before taking any bear within the State. Notwithstanding any other provision of law, a resident or nonresident individual may not take any bear within the State without procuring this stamp; provided, that those persons who have purchased a lifetime license established by G.S. 113-270.1D(b), 113-270.2(c)(2), or 113-351(c)(3) prior to July 1, 2014, those persons who have obtained a lifetime license established by G.S. 113-270.1D(b)(9), and those persons exempt from the license requirements as set forth in G.S. 113-276(c), G.S. 113-276(d), and G.S. 113-276(n) shall obtain this stamp free of charge. All of the revenue generated by this stamp shall be dedicated to black bear research and management. This stamp expires June 30.
- (2) Nonresident Big Game Hunting License. This license shall be issued only to an individual nonresident of the State and entitles the holder to take big game by all lawful methods and during all open seasons. The nonresident big game hunting licenses issued by the Wildlife Resources Commission are:
 - a. Season License – \$100.00.
 - b. Ten-Day License – \$80.00. This license is only valid for the 10 consecutive dates indicated on the license.
- (2a) Bonus Antlerless Deer License – \$10.00. This license shall be issued to an individual resident or nonresident of the State who holds a valid North Carolina big game hunting license or an individual resident who is exempt from the hunting license requirement in accordance with G.S. 113-276(c) and G.S. 113-276(d) and entitles the holder to take two antlerless deer during seasons and by methods authorized by the Wildlife Resources Commission. This license expires June 30.
- (2b) Bonus CWD Deer License. - This license may be issued to an individual resident or nonresident of the State who holds a valid North Carolina hunting license that entitles the licensee to take big game, or an individual resident who is exempt from the hunting license requirement in accordance with G.S. 113-276(c) and G.S. 113-276(d) and entitles the holder to take two deer of either sex in an area identified by the Wildlife Resources Commission for special management action due to the presence of or potential for Chronic Wasting Disease during seasons and by methods authorized by the Wildlife Resources Commission. This license expires June 30.

- (3) Game Land License – \$15.00. The Wildlife Resources Commission may, pursuant to G.S. 113-264(a), designate in its rules activities on game lands that require purchase of this license and may charge additional fees for use of specially developed facilities.
- (4) Falconry License – \$10.00. This license shall be issued to an individual resident or nonresident of the State and must be procured before:
 - a. Taking, importing, transporting, or possessing a raptor; or
 - b. Taking wildlife by means of falconry.

In addition to a falconry license, license holders 16 years of age and older must also possess a hunting license as set forth in G.S. 113-270.1C, 113-270.1D, and 113-270.2 when taking wildlife by means of falconry. The Wildlife Resources Commission may issue classes of falconry licenses necessary to participate in the federal/State permit system, require necessary examinations before issuing licenses or permits to engage in various authorized activities related to possession and maintenance of raptors and the sport of falconry, and regulate licenses as required by governing federal law and rules. To defray the costs of administering required examinations, the Wildlife Resources Commission may charge reasonable fees upon giving them. To meet minimum federal standards plus other State standards in the interests of conservation of wildlife resources, the Wildlife Resources Commission may impose all necessary controls, including those set out in the sections pertaining to collection licenses and captivity licenses, and may issue permits and require reports, but no collection license or captivity license is needed in addition to the falconry license.

- (5) Migratory Waterfowl Hunting License – \$13.00. This license shall be issued to an individual resident or nonresident of the State and entitles the holder to take migratory waterfowl in accordance with applicable laws and regulations. The Wildlife Resources Commission may implement this license requirement through the sale of an official waterfowl stamp which may be a facsimile, in an appropriate size, of the waterfowl conservation print authorized by G.S. 113-270.2B. An amount not less than one-half of the annual proceeds from the sale of this license shall be used by the Commission for cooperative waterfowl habitat improvement projects through contracts with local waterfowl interests, with the remainder of the proceeds to be used by the Commission in its statewide programs for the conservation of waterfowl.
- (6) Resident American Alligator License – \$250.00. This license shall be issued to an individual resident of the State and entitles the holder to take American alligator during the open alligator season by methods authorized by the Wildlife Resources Commission. This license expires June 30.
- (7) Nonresident American Alligator License – \$500.00. This license shall be issued to an individual nonresident of the State and entitles the holder to take American alligator during the open alligator season by methods authorized by the Wildlife Resources Commission. This license expires June 30.
- (8) Resident Elk License – \$500.00. This license shall be issued to an individual resident of the State and entitles the holder to take elk during the open elk

season by methods authorized by the Wildlife Resources Commission. This license expires June 30.

- (9) Nonresident Elk License – \$1,000. This license shall be issued to an individual nonresident of the State and entitles the holder to take elk during the open elk season by methods authorized by the Wildlife Resources Commission. This license expires June 30.

(c) Any individual who kills any species of big game must report the kill to the Wildlife Resources Commission. The Commission may by rule prescribe the method of making the report, prescribe its contents, and require positive identification of the carcass of the kill, by tagging or otherwise. The Wildlife Resources Commission may administratively provide for the annual issuance of big game tags or other identification for big game authorized by this section to holders of lifetime sportsman licenses and lifetime comprehensive hunting licenses.

(d) Any individual who possesses any of the lifetime sportsman licenses established by G.S. 113-270.1D(b) may engage in specially regulated activities without the licenses required by subdivisions (1), (2), (3), and (5) of subsection (b) of this section. Any individual possessing an annual sportsman license established by G.S. 113-270.1D(a) or a lifetime or annual comprehensive hunting license established by G.S.113-270.2(c)(2) or (5) may engage in specially regulated activities without the licenses required by subdivisions (1), (3), and (5) of subsection (b) of this section.

(e) When the Wildlife Resources Commission establishes a primitive weapons season pursuant to G.S. 113-291.2(a), all of the combination hunting and fishing licenses established in G.S.113-270.1C, sportsman licenses established in G.S. 113-270.1D, and hunting licenses established in G.S. 113-270.2(c)(1), (2), (3), (5), and (6) entitle the holder to participate. For purposes of this section, "primitive weapons" include bow and arrow, muzzle-loading firearm, and any other primitive weapon specified in the rules of the Wildlife Resources Commission. (1969, c. 1042, s. 7; 1973, c. 1097, s. 1; 1975, c. 171; c. 197, ss. 5, 7; c. 673, s. 1; 1977, c. 746, s. 1; 1979, c. 830, s. 1; 1979, 2nd Sess., c. 1178, ss. 2, 5; 1981, c. 482, s. 7; c. 620, s. 1; 1981 (Reg. Sess., 1982), c. 1201, s. 2; 1983, c. 140, ss. 2-3; 1987, c. 156, ss. 3-5; c. 452, ss. 2, 3; c. 745, s. 2; c. 827, s. 98; 1991, c. 671, s. 1; 1993 (Reg. Sess., 1994), c. 557, s. 2; 1993 (Reg. Sess., 1994), c. 684, s. 3; 1999-339, s. 6; 2001-91, s. 3; 2006-226, s. 21; 2009-214, s. 1; 2011-369, s. 3; 2013-283, s. 4; 2014-100, s. 14.25(a); 2018-82, s. 2; 2018-90, s. 2; 2019-204, s. 6(e); 2023-69, s. 2.2(a).)

§ 113-270.4. Hunting and fishing guide license.

(a) No one may serve for hire as a hunting or fishing guide without having first procured a current and valid hunting and fishing guide license. This license is valid only for use by an individual meeting the criteria set by the Wildlife Resources Commission for issuance of the license subject to the limitations set forth in this section. Possession of the hunting and fishing guide license does not relieve the guide from meeting other applicable license requirements.

(b) The hunting and fishing guide licenses issued by the Wildlife Resources are:

- (1) Resident Hunting and Fishing Guide License – \$15.00. This license is valid for use only by an individual resident of the State.
- (2) Nonresident Hunting and Fishing Guide License – \$150.00. This license is valid for use by a nonresident individual in the State.

(c) The Wildlife Resources Commission may by rule provide for the qualifications and duties of hunting and fishing guides. In implementing this section, the Wildlife Resources Commission may delegate to the Executive Director and his subordinates administrative

responsibilities concerning the selection and supervision of hunting and fishing guides, except that provisions relating to revocation of hunting and fishing guide licenses must be substantially set out in the rules of the Wildlife Resources Commission. (1935, c. 486, s. 12; 1937, c. 45, s. 1; 1945, c. 617; 1949, c. 1203, s. 1; 1957, c. 849, s. 1; 1959, c. 304; 1961, c. 834, s. 1; 1967, c. 790; 1969, c. 1030; c. 1042, ss. 1-5; 1971, c. 242, c. 282, s. 1; c. 705, ss. 1, 2; 1973, c. 1262, s. 18; 1975, c. 197, ss. 1-4; 1977, c. 658; 1979, c. 830, s. 1; 1981 (Reg. Sess., 1982), c. 1201, s. 3; 1983, c. 140, s. 4; 1987, c. 156, s. 6; c. 827, s. 98; 1991 (Reg. Sess., 1992), c. 989, s. 1; 1993, c. 553, s. 32.1; 2001-91, s. 4; 2013-283, s. 5.)

§ 113-270.5. Trapping licenses.

(a) Except as otherwise specifically provided by law, no person may take wild animals by trapping during open trapping seasons without a valid trapping license.

(b) The trapping licenses issued by the Wildlife Resources Commission are as follows and entitle the licensee to access and use Wildlife Resource Commission Property:

- (1) Resident State Trapping License – \$30.00. This license is valid only for use by an individual resident of the State.
- (1a) Resident Lifetime Trapping License – \$300.00. This license shall be issued only to an individual resident of the State and is valid for the lifetime of the licensee.
- (2) Repealed by Session Laws 2013-283, s. 6, effective August 1, 2014.
- (3) Nonresident State Trapping License – \$125.00. This license is valid for use by an individual within the State. (1929, c. 278, s. 3; 1969, c. 1042, s. 6; 1973, c. 1262, s. 18; 1975, c. 197, ss. 9-11; 1979, c. 830, s. 1; 1981 (Reg. Sess., 1982), c. 1201, s. 4; 1983, c. 140, s. 5; 1987, c. 156, s. 7; c. 827, s. 98; 2001-91, s. 5; 2013-283, s. 6; 2019-204, s. 6(f).)

§ 113-271. Hook-and-line licenses in inland and joint fishing waters.

(a) An inland hook-and-line fishing license issued under subdivisions (2), (3), (5), (6), (6a), (6b), and (6c) of subsection (d) of this section entitles the licensee to fish with hook and line in inland fishing waters, joint fishing waters, and public mountain trout waters. An inland hook-and-line fishing license issued under this section entitles the licensee to access and use Wildlife Resources Commission Property, but does not entitle the licensee to engage in fishing in coastal fishing waters.

(b) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 684, s. 4.

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

(d) The hook-and-line fishing licenses issued by the Wildlife Resources Commission are as follows:

- (1) Repealed by Session Laws 2019-204, s. 6(g), effective September 1, 2019.
- (2) Resident State Inland Fishing License – \$25.00. This license shall be issued only to an individual resident of the State.
- (3) Lifetime Resident Comprehensive Inland Fishing License – \$250.00. This license shall be issued only to an individual resident of the State and is valid for the lifetime of the licensee.
- (4) Repealed by Session Laws 2013-283, s. 7, effective August 1, 2014.
- (5) Nonresident State Inland Fishing License – \$45.00. This license shall be issued to an individual nonresident of the State.

- (6) Short-Term Inland Fishing Licenses. Short-term inland fishing licenses are valid only for the date or consecutive dates indicated on the licenses. Short-term inland fishing licenses issued by the Wildlife Resources Commission are:
 - a. Resident 10-day Inland Fishing License – \$9.00. This license shall be issued only to a resident of the State.
 - b. Nonresident 10-day Inland Fishing License – \$23.00. This license shall be issued only to a nonresident of the State.
 - c. Repealed by Session Laws 2005-455, s. 1.8, effective January 1, 2007.
- (6a) Age 70 Resident Lifetime Inland Fishing License – \$15.00. This license shall be issued only to an individual resident of the State who is at least 70 years of age.
- (6b) Resident Disabled Veteran Lifetime Inland Fishing License – \$10.00. This license shall be issued only to an individual who is a resident of the State and who is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans Affairs or as established by rules of the Wildlife Resources Commission. This license remains valid for the lifetime of the licensee.
- (6c) Resident Totally Disabled Lifetime Inland Fishing License – \$10.00. This license shall be issued only to an individual who is a resident of the State and who is totally and permanently disabled as determined by the Social Security Administration or as established by rules of the Wildlife Resources Commission. This license remains valid for the lifetime of the licensee.
- (7), (8) Repealed by Session Laws 2005-455, s. 1.8, effective January 1, 2007.
- (9) Special Landholder and Guest Fishing License – \$100.00. This license shall be issued only to the landholder of private property bordering inland or joint fishing waters. This license shall entitle the landholder and guests of the landholder to fish from the shore or any pier or dock originating from the property without any additional fishing license. This license is applicable only to private property and private docks and piers and is not valid for any public property, pier, or dock nor for any private property, pier, or dock operated for any commercial purpose whatsoever. This license shall not be in force unless displayed on the premises of the property and only entitles fishing without additional license to persons fishing from the licensed property and then only when fishing within the private property lines. This license is not transferable as to person or location. For purposes of this subdivision, a guest is any individual invited by the landholder to fish from the property at no charge. A charge includes any fee, assessment, dues, rent, or other consideration which must be paid, whether directly or indirectly, in order to be allowed to fish from the property, regardless of the stated reason for such charge.
- (10) Mountain Heritage Trout Waters Three-Day Fishing License – \$8.00. This license shall be issued to an individual resident or nonresident of the State and shall entitle the holder to fish in waters designated by the Wildlife Resources Commission as mountain heritage trout waters for the three consecutive days indicated on the license. An individual who holds a mountain heritage trout waters three-day fishing license does not need to hold any other hook-and-line fishing license issued pursuant to this subsection in order to fish in mountain heritage trout waters. (1929, c. 335, ss. 1-4; 1931, c. 351; 1933, c. 236; 1935, c.

(c3) Any person who unlawfully takes, possesses, or transports any elk is guilty of a Class 1 misdemeanor, punishable by a fine of not less than two thousand five hundred dollars (\$2,500) in addition to such other punishment prescribed for the offense in question.

(d) Any person who unlawfully takes, possesses, or transports any deer is guilty of a Class 3 misdemeanor, punishable by a fine of not less than two hundred fifty dollars (\$250.00) in addition to such other punishment prescribed for the offense in question.

(d1) Any person who unlawfully takes, possesses, or transports any deer from land that has been posted in accordance with the provisions of G.S. 14-159.7 without written permission of the landowner, lessee, or the agent of the landowner or lessee is guilty of a Class 2 misdemeanor, punishable by a fine of not less than five hundred dollars (\$500.00).

(e) Any person who unlawfully takes deer between a half hour after sunset and a half hour before sunrise with the aid of an artificial light is guilty of a Class 2 misdemeanor, punishable by a fine of not less than five hundred dollars (\$500.00) in addition to such other punishment prescribed for the offense in question.

(f) Any person who unlawfully takes, possesses, transports, sells, or buys any beaver, or violates any rule of the Wildlife Resources Commission adopted to protect beavers, is guilty of a Class 3 misdemeanor, unless a greater penalty is prescribed for the offense in question.

(g) Any person who unlawfully takes wild animals or birds from or with the use of a vessel equipped with a motor or with motor attached is guilty of a Class 2 misdemeanor, unless a greater penalty is prescribed for the offense in question.

(h) Any person who willfully makes any false or misleading statement in order to secure for himself or another any license, permit, privilege, exemption, or other benefit under this Subchapter to which he or the person in question is not entitled is guilty of a Class 1 misdemeanor.

(i) Any person who violates any provision of G.S. 113-291.6, regulating trapping, is guilty of a Class 2 misdemeanor, unless a greater penalty is prescribed for the offense in question.

(j) Any person who unlawfully sells, possesses for sale, or buys a fox, or who takes any fox by unlawful trapping or with the aid of any electronic calling device is guilty of a Class 2 misdemeanor, unless a greater penalty is prescribed for the offense in question.

(k) Repealed by Session Laws 1995, c. 209, s. 1.

(l) Any person who unlawfully takes, possesses, transports, sells or buys any bald eagle or golden eagle, alive or dead, or any part, nest or egg of a bald eagle or golden eagle is guilty of a Class 1 misdemeanor, unless a greater penalty is prescribed for the offense in question.

(m) Any person who unlawfully takes any migratory game bird with a rifle; or who unlawfully takes any migratory game bird with the aid of live decoys or any salt, grain, fruit, or other bait; or who unlawfully takes any migratory game bird during the closed season or during prohibited shooting hours; or who unlawfully exceeds the bag limits or possession limits applicable to any migratory game bird; or who violates any of the migratory game bird permit or tagging rules of the Wildlife Resources Commission is guilty of a Class 2 misdemeanor, punishable by a fine of not less than two hundred fifty dollars (\$250.00) in addition to any other punishment prescribed for the offense in question.

(n) Any person who violates any rule of the Commission that restricts access by vehicle on game lands to a person who holds a special vehicular access identification card and permit issued by the Commission to persons who have a handicap that limits physical mobility shall be guilty of a Class 2 misdemeanor and shall be fined not less than one hundred dollars (\$100.00) in addition to any other punishment prescribed for the offense.

location of these special activities so as to provide equal access to disabled persons in all regions of the State. (1993 (Reg. Sess., 1994), c. 557, s. 1; 2005-438, s. 3; 2005-455, s. 1.15; 2008-205, s. 2.)

§ 113-297. Method exemptions for disabled persons.

(a) Any person whose physical disability makes it impossible for the person to hunt or fish by conventional methods for one year or more may apply to the Wildlife Resources Commission for a hunting or fishing methods exemption allowing that person to hunt or fish in a manner that would otherwise be prohibited by rules adopted by the Commission. The application shall be accompanied by a signed statement from a physician containing the following information:

- (1) The nature of the person's disability;
- (2) The necessity of the exemption in order to allow the person to hunt or fish; and
- (3) Whether the disability is permanent or temporary and, if temporary, the length of time after which the physician anticipates that the person may be able to hunt or fish without the exemption.

The Wildlife Resources Commission may authorize any reasonable exemption in order to permit a disabled person complying with the requirements of this section to hunt or fish and may issue a permit describing the exemption made in each case. The permit may be permanent or, if the disability is temporary, the permit may coincide with the length of time the signed physician's statement indicates the disability is expected to last. A person issued a permit under this section shall possess the permit while hunting or fishing in the exempted manner.

(b) In addition to providing disabled persons reasonable exemptions from rules adopted by the Wildlife Resources Commission, the Commission may permit a person complying with the application procedure outlined in subsection (a) of this section to use a crossbow or other specially equipped bow if the physician's statement indicates that the person is incapable of arm movement sufficient to operate a longbow, recurve bow, or compound bow. (1995, c. 62, s. 1.)

§ 113-298. Unlawful use of facilities provided for disabled sportsman.

Any person who knowingly uses facilities or participates in activities provided by the Wildlife Resources Commission for disabled sportsmen, when that person does not meet the qualifications for use of those facilities or participation in those activities, is guilty of a Class 3 misdemeanor. (1997-326, s. 5.)

§ 113-299. Aerial management of feral swine.

Notwithstanding G.S. 113-291.1(b)(1), employees of the Wildlife Resources Commission and employees of federal agencies whose responsibilities include fisheries and wildlife management, in the performance of such employees' official duties, may cull feral swine from aircraft, with the written permission of the landowner. However, no such activity shall occur in coastal counties, as defined in G.S. 113A-103(2) during waterfowl season. (2016-113, s. 3.)

§ 113-300. Reserved for future codification purposes.

Article 22A.

Use of Poisons and Pesticides.

§ 113-300.1. Use of poisons and pesticides in general.

No one may take any wild animal or bird with the use of any poison or pesticide except as provided in this Article. The taking of fish by the use of poison is governed by G.S. 113-261 and

(c) The Wildlife Resources Commission may, within the terms of policies set by rule, delegate to the Executive Director all administrative powers granted to it.

(d) The Wildlife Resources Commission is hereby authorized and directed to develop a plan and policy of wildlife management for all lands owned by the State of North Carolina which are suitable for this purpose. The Division of State Property and Construction of the Department of Administration shall determine which lands are suitable for the purpose of wildlife management. Nothing in the wildlife management plan shall prohibit, restrict, or require the change in use of State property which is presently being used or will in the future be used to carry out the goals and objectives of the State agency utilizing such land. Each plan of wildlife management developed by the Wildlife Resources Commission shall consider the question of public hunting; and whenever and wherever possible and consistent with the primary land use of the controlling agency, public hunting shall be allowed under cooperative agreement with the Wildlife Resources Commission. Any dispute over the question of public hunting shall be resolved by the Division of State Property and Construction.

(e) Subject to any policy directives adopted by the members of the Wildlife Resources Commission, the Executive Director in his discretion may institute an action in the name of the Wildlife Resources Commission in the appropriate court for injunctive relief to prevent irreparable injury to wildlife resources or to prevent or regulate any activity within the jurisdiction of the Wildlife Resources Commission which constitutes a public nuisance or presents a threat to public health or safety.

(f) The Wildlife Resources Commission may adopt rules governing the exercise of emergency powers by the Executive Director when the Commission determines that such powers are necessary to respond to a wildlife disease that threatens irreparable injury to wildlife or the public. The rules shall provide that the Executive Director must consult with the Commission, the State Veterinarian, and the Governor prior to implementing the emergency powers. The rules shall also specify the method by which the public will be notified of the exercise of emergency powers. The exercise of emergency powers shall not extend for more than 90 days after the Commission's determination that a disease outbreak has occurred, unless a temporary rule is adopted by the Commission in accordance with G.S. 150B-21.1 to replace the emergency powers. If a temporary rule is adopted prior to the expiration of the 90 days, the Executive Director may continue to exercise emergency powers until either a permanent rule to replace the temporary rule becomes effective or the temporary rule expires as provided by G.S. 150B-21.1(d). The Commission's determination that a disease outbreak has occurred shall constitute a basis for adoption of a temporary rule. The emergency powers that may be authorized by rules adopted pursuant to this subsection include:

- (1) Prohibiting activities that aid in the transmission or movement of the disease.
- (2) Implementing activities to reduce infection opportunities.
- (3) Implementing requirements to assist in the detection and isolation of the disease.

(g) Any person who violates emergency powers or rules adopted pursuant to subsection (f) of this section is guilty of a Class 3 misdemeanor for a first conviction or a Class 2 misdemeanor for a second or subsequent conviction within three years. (1965, c. 957, s. 2; 1973, c. 1262, s. 18; 1977, c. 759; 1979, c. 830, s. 1; 1981, c. 482, s. 3; 1987, c. 827, ss. 98, 106; 2007-401, s. 1; 2022-65, s. 1(b).)

§ 113-307. Adoption of federal laws and regulations.

To the extent that the Wildlife Resources Commission is granted authority under this Chapter or under any other provision of law, including Chapter 75A of the General Statutes, over subject matter as to which there is concurrent federal jurisdiction, the Wildlife Resources Commission in its discretion may by reference in its rules adopt relevant provisions of federal law and regulations as State rules. To prevent confusion or conflict of jurisdiction in enforcement, the Wildlife Resources Commission may provide for an automatic incorporation by reference into its rules of future changes within any particular set of federal laws or regulations relating to some subject clearly within the jurisdiction of the Wildlife Resources Commission. (1965, c. 957, s. 2; 1973, c. 1262, s. 18; 1987, c. 827, s. 107.)

§ 113-307.1. Legislative assent to specific federal acts.

(a) The consent of the General Assembly of North Carolina is hereby given to the making by the Congress of the United States, or under its authority, of all such rules and regulations as the federal government shall determine to be needful in respect to game animals, game and nongame birds, and fish on such lands in the western part of North Carolina as shall have been, or may hereafter be, purchased by the United States under the terms of the act of Congress of March 1, 1911, entitled "An act to enable any state to cooperate with any other state or states, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purposes of conserving the navigability of navigable rivers" (36 Stat. 961), and acts of Congress supplementary thereto and amendatory thereof, and in or on the waters thereon.

Nothing in this subsection shall be construed as conveying the ownership of wildlife from the State of North Carolina or permit the trapping, hunting, or transportation of any game animals, game or nongame birds, or fish by any person, including any agency, department, or instrumentality of the United States or agents thereof, on the lands in North Carolina, as shall have been or may hereafter be purchased by the United States under the terms of any act of Congress, except in accordance with the provisions of this Subchapter and its implementing regulations. Provided, that the provisions of G.S. 143B-135.20 apply with respect to licenses.

Any person, including employees or agents of any department or instrumentality of the United States, violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

(b) The State of North Carolina hereby assents to the provisions of the act of Congress entitled "An act to provide that the United States shall aid the states in wildlife restoration projects, and for other purposes," approved September 2, 1937 (Public Law 415, 75th Congress, also known as the "Pittman-Robertson Act"), 16 U.S.C. § 669, et seq., as amended, and the Wildlife Resources Commission and the Division of Marine Fisheries of the Department of Environmental Quality are hereby authorized, empowered, and directed to perform such acts as may be necessary to the conduct and establishment of cooperative wildlife restoration projects, as defined in the Pittman-Robertson Act, in compliance with the Act and rules and regulations promulgated by the Secretary of the Interior under the Act. No funds accruing to the State of North Carolina from license fees paid by hunters shall be diverted for any other purpose than the protection and propagation of game and wildlife in North Carolina and administration of the laws enacted for such purposes, which laws are and shall be administered by the Wildlife Resources Commission. No funds accruing to the State of North Carolina from license fees paid by fishermen for license programs administered by the Division of Marine Fisheries shall be diverted for any other purpose than the administration by the Division of Marine Fisheries of the Department of Environmental Quality of the portion of the State's fish programs applicable to the marine and estuarine resources

It is declared to be in the interest of the public welfare of North Carolina that those engaged in "coastal fisheries," as defined in G.S. 113-129, shall be permitted and encouraged to act jointly and cooperatively for the purposes of promoting the common good, welfare, and advancement of their industry. (1967, c. 890, s. 2.)

§ 113-310. Certain activities not to be deemed illegal or in restraint of trade.

No association, meeting or activity undertaken in pursuance of the provisions of this Article and intended to benefit all of the coastal fisheries or distinguishable part thereof hereinunder certified by the Marine Fisheries Commission shall be deemed or considered illegal or in restraint of trade. (1967, c. 890, s. 3; 1973, c. 1262, s. 28.)

§ 113-311. Referendum and assessment declared to be in public interest.

It is hereby declared to be in the interest of the public that the coastal fisheries or any distinguishable part thereof shall be permitted by referendum to be held among themselves as prescribed by this Article, to levy upon themselves an assessment on such respective catches, volume, landings, income, or production for the purposes of promoting the common good, welfare, and advancement of the fishing and seafood industry of North Carolina, in addition to any and all taxes, levies, and licenses in effect on June 22, 1967, or that may be enacted and levied or imposed subsequently. (1967, c. 890, s. 4.)

§ 113-312. Application to Marine Fisheries Commission for authority to conduct referendum.

Any agency fairly representative of any distinguishable part or all of the fishing and seafood industry may at any time make application in writing or petition to the Marine Fisheries Commission for certification and approval to conduct a referendum among the coastal fisheries or any distinguishable part thereof for the purpose of levying an assessment under the provisions of this Article, collecting, and utilizing the proceeds for the purposes stated in such referendum and as set forth in this Article. (1967, c. 890, s. 5; 1973, c. 1262, s. 28.)

§ 113-313. Action of Marine Fisheries Commission on application.

Upon receiving an application or petition as herein provided, the Marine Fisheries Commission shall at its next regular quarterly meeting consider such application as follows:

- (1) The Marine Fisheries Commission shall determine if the agency is in fact fairly representative of the coastal fisheries or distinguishable part thereof making application or petitioning for referendum and record in its minutes its determination.
- (2) The Marine Fisheries Commission shall determine if the application or petition is in conformity with the provisions and purposes of this Article and record in its minutes its determination.
- (3) If the Marine Fisheries Commission determines in the affirmative as to (1) and (2) above, it shall authorize and empower the agency to hold and conduct a referendum on the question of whether or not members of the fishing and seafood industry, or the distinguishable part thereof, making application or petition, shall levy upon themselves an assessment under and subject to the conditions and provisions and for the purpose stated in this Article. (1967, c. 890, s. 6; 1973, c. 1262, s. 28.)

§ 113-314. Agency to determine time and place of referendum, amount and basis of assessment, etc.; notice of referendum.

The agency shall fix, determine, and publicly announce such referendum at least 30 days before the date set for such referendum, the date, hours, and polling places for voting in such referendum, the amount and basis of the assessment proposed to be collected, the means by which such assessment shall be collected if favorably voted upon, and the general purposes to which said amount so collected shall be applied. Such public notice shall be published at least once 20 days prior to the election in one or more newspapers having general circulation in the area where the vote is to be taken. (1967, c. 890, s. 7.)

§ 113-315. Maximum assessment.

No assessment levied on any commodity under the provisions of this Article shall exceed one percent (1%) of the average value of this commodity during the next three years for which published statistics by the State of North Carolina or the federal government are available next preceding the application or petition. (1967, c. 890, s. 8.)

§ 113-315.1. Arrangements for and management of referendum; expenses.

The arrangements for and management of any referendum conducted under the provisions of this Article shall be under the direction of the agency duly certified and authorized to conduct the same, and any and all expenses in connection herewith shall be borne by the agency. (1967, c. 890, s. 9.)

§ 113-315.2. Referendum may be by mail ballot or box ballot; who may vote.

Any referendum conducted under the provisions of this Article may be held by mail ballot or by box ballot as may be determined and publicly announced as herein provided by the agency before such referendum is called. A person licensed by the Marine Fisheries Commission to engage in business and commerce as may be directly affected by the paying of the assessment, or anyone who would be subject to paying such assessment should the question be voted in the affirmative, shall be eligible and may vote in such referendum. (1967, c. 890, s. 10; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1987, c. 641, s. 6.)

§ 113-315.3. Preparation and distribution of ballots; conduct of referendum; canvass and declaration of results.

The duly certified agency shall prepare and distribute in advance of such referendum all necessary ballots for the purpose thereof, and shall under rules and regulations drawn up and promulgated by said agency, arrange for the necessary poll holders or officials for conducting the said referendum; and following said referendum and within 10 days thereafter the duly certified agency shall canvass and publicly declare the result of such referendum; except that in the event a mail ballot is used, a mail ballot shall be posted by registered mail on a prearranged date at least 30 days following announcement of same to each duly licensed voter by the agency, and a return, self-addressed envelope of suitable size and construction for containing the completed ballot with ample postage affixed shall be enclosed along with complete instructions on the voting procedure, these instructions stating that the ballot should be marked by the voter to indicate and show his preference, then inserted into the return envelope, sealed, and posted or returned within 10 days of the date of the original or first posting, and on a predesignated date and hour at least 15 days after

- (2) "Fisherman" means: any person, firm, corporation, cooperative, partnership, or any legally constituted group, engaged in the harvesting, handling, processing, packaging, and marketing of fishery or seafood products from coastal fishing waters as defined by G.S. 113-129. (1973, c. 618, s. 1.)

§ 113-315.18. Fishermen's Economic Development Program.

The Secretary is hereby authorized to provide through his Department and the extension services of the University of North Carolina those services intended to promote the economic development of the fishermen, including but not limited to:

- (1) Instituting business management services to promote better business management practices throughout the fishing and seafood industry, and to promote the better use of credit and other business management techniques.
- (2) Providing counseling services to the fishermen at all levels and assisting them in meeting the federal and State environmental, safety and health requirements.
- (3) Improving waterways, harbors, inlets, and generally the water transportation system of North Carolina so as to more efficiently and safely accommodate commercial and sport fishing craft, and to provide access to and from fishing grounds. (1973, c. 618, s. 1; c. 1262, s. 28; 1975, c. 19, s. 36; 1977, c. 771, s. 4; 1989, c. 727, s. 116.)

§ 113-315.19. Personnel needs.

To effectively carry out the duties and responsibilities set forth above, the Secretary may employ or contract with the extension services of the University of North Carolina to employ the following persons:

- (1) A person to have responsibility for the successful execution of the program and to coordinate as deemed desirable with other agencies of the State and federal government,
- (2) A business management specialist,
- (3) An insurance and finance specialist,
- (4) A specialist who could understand, interpret, and counsel on regulations and requirements,
- (5) A specialist in waterways, and water transportation, and
- (6) Such clerical personnel as necessary to carry out the provisions of this Article. (1973, c. 618, s. 1.)

§§ 113-315.20 through 113-315.24. Reserved for future codification purposes.

Article 23C.

North Carolina Marine Industrial Park Authority.

§ 113-315.25. Creation of Authority; membership; appointment; terms and vacancies; officers; meetings and quorum; compensation.

(a) There is hereby created the North Carolina Marine Industrial Park Authority. It shall be governed by a board composed of 11 members to be appointed as follows. The Board is hereby designated as the Authority.

- (b) Nine members shall be appointed by the Governor.

§ 113-315.27. Executive committee.

There shall be an executive committee consisting of the chairman of the Authority and two other members elected annually by the Authority. The executive committee shall be vested with authority to do all acts which are specifically authorized by the bylaws of the Authority. Members of the executive committee shall serve until their successors are elected. (1979, c. 459, s. 3.)

§ 113-315.28. Purposes of Authority.

Through the Authority created by this Article, the State of North Carolina may engage in promoting, developing, constructing, equipping, maintaining and operating one or more marine industrial parks within the State, or within the jurisdiction of the State, and works of internal improvements related to the purposes set forth in this section, including the acquisition or construction, maintenance and operation of watercraft and facilities located at the parks or essential for the proper operation of the parks. The Authority is created as an instrumentality of the State of North Carolina for the accomplishment of the following general purposes:

- (1) To develop and improve the Wanchese Marine Industrial Park, and such other marine industrial parks, including inland ports and facilities, as may be deemed feasible for a more expeditious and efficient handling of marine commerce from and to any place or places in the State of North Carolina and other states and foreign countries;
- (2) To acquire, construct, equip, maintain, develop and improve the port facilities at the parks and to maintain, develop, and improve the navigability of waterways in or adjacent to the parks and those waterways connecting the parks with the channels of commerce of the Atlantic Ocean;
- (3) To foster and stimulate the growth of marine-related industries in the State of North Carolina;
- (4) Repealed by Session Laws 2013-211, s. 1, effective June 26, 2013.
- (5) To accept funds from any counties or cities containing a marine industrial park and to use the same in such manner, within the purposes of said Authority, as shall be stipulated by the funding county or city, and to act as agent or instrumentality of any funding counties or cities in any matter coming within the general purposes of said Authority;
- (5a) To encourage and develop the general maritime and marine-related industries and activities at or in the vicinity of the marine industrial parks;
- (6) And in general to do and perform any act or function which may tend to be useful toward the development and improvement of marine industrial parks in the State of North Carolina, and to increase the movement of waterborne marine commerce, foreign and domestic, to, through, and from the marine industrial parks.

The enumeration of the above purposes shall not limit or circumscribe the broad objective of developing to the utmost the marine industry possibilities of the State of North Carolina. (1979, c. 459, s. 4; 1993, c. 278, s. 1; 1998-212, s. 15.5(a); 2013-211, s. 1.)

§ 113-315.29. Powers of Authority.

In order to enable it to carry out the purposes of this Article, the Authority shall:

- (1) Have the powers of a body corporate, including the power to sue and be sued, to make contracts, and to adopt and use a common seal and to alter the same as may be deemed expedient;
- (2) Have the authority to make all necessary contracts and arrangements with other marine industrial park or port authorities of this and other states for the interchange of business, and for such other purposes as will facilitate and increase the marine industries;
- (3) Be authorized and empowered to rent, lease, buy, own, acquire, mortgage, otherwise encumber, and dispose of such property, real or personal, as said Authority may deem proper to carry out the purposes and provisions of this Article, all or any of them;
- (4) Be authorized and empowered to acquire, construct, maintain, equip and operate any wharves, docks, piers, quays, elevators, compresses, refrigeration storage plants, warehouses and other structures, and any and all facilities needful for the convenient use of the same in the aid of commerce, including the dredging of approaches to port facilities at the parks and improving the navigability of those waterways connecting the parks with the channels of commerce of the Atlantic Ocean;
- (5) Be authorized and empowered to pay all necessary costs and expenses involved and incident to the formation and organization of the Authority, and incident to its administration and operation, and to pay all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this Article;
- (6) Be authorized and empowered to apply for and accept loans and grants of money from any federal agency or the State of North Carolina and its political subdivisions or from any public or private sources available for any and all of the purposes authorized in this Article, and to expend these funds in accordance with the directions and requirements of the granting or loaning authority, or imposed on the loans and grants by any federal agency, the State of North Carolina and its political subdivisions, or any public or private lender or donor, and to give such evidences of indebtedness as shall be required, provided, however, that no indebtedness of any kind incurred or created by the Authority shall constitute an indebtedness of the State of North Carolina, or any of its political subdivisions, and no such indebtedness shall involve or be secured by the faith, credit or taxing power of the State of North Carolina, or any of its political subdivisions;
- (7) Be authorized and empowered to act as agent for the United States of America, or any of its agencies, departments, corporations, or instrumentalities in any matter coming within the purposes or powers of the Authority;
- (8) Have power to adopt, alter or repeal bylaws and rules governing the manner in which its business may be transacted and in which the power granted to it may be enjoyed, and may provide for the appointment of any committees as the Authority may deem necessary or expedient in facilitating its business;
- (8a) Have the authority to assess and collect fees for its services or for the use of its facilities;

and with the approval of the Governor after receiving the advice of the Local Government Commission. The State Treasurer in his sole discretion shall determine the interest rates, maturities, and other terms and conditions of the bonds and notes authorized by this Article. The North Carolina Marine Industrial Park Authority shall determine when a bond issue is indicated. The Authority shall cooperate with the State Treasurer in structuring any bond issue in general, and also in soliciting proposals from financial consultants, underwriters, and bond attorneys. (1979, c. 459, s. 7; 1983, c. 577, s. 2; 1985 (Reg. Sess., 1986), c. 955, ss. 13, 14; 2006-203, s. 28; 2013-211, s. 1.)

§ 113-315.32. Power of eminent domain.

For the acquiring of rights-of-way and property necessary for the construction of wharves, piers, ships, docks, quays, elevators, compresses, refrigerator storage plants, warehouses and other riparian and littoral terminals and structures and approaches thereto, including the navigation stabilization structures and transportation facilities needful for the convenient use of same, the Authority shall have the right and power to acquire the same by purchase, by negotiation, or by condemnation, and should it elect to exercise the right of eminent domain, condemnation proceedings shall be maintained by and in the name of the Authority, and it may proceed in the manner provided for the Board of Transportation by Article 9 of Chapter 136 of the General Statutes. The power of eminent domain shall not apply to property of persons, State agency or corporations already devoted to public use, other than lands subject to the power of eminent domain by the State of North Carolina in the reservation clauses of a deed recorded in the Dare County Registry at Book 79 Page 548. (1979, c. 459, s. 8; 1998-212, s. 15.5(b); 2013-211, s. 1.)

§ 113-315.33. Exchange of property; removal of buildings, etc.

The Authority may exchange any property or properties acquired under the authority of this Chapter for other property, or properties usable in carrying out the powers conferred by this Article, and also may remove from lands needed for its purposes and reconstruct on other locations, buildings, terminals, or other structures, upon the payment of just compensation, if in its judgment, it is necessary or expedient so to do in order to carry out any of its plans for marine industrial park development, under the authorization of this Article. (1979, c. 459, s. 9; 2013-211, s. 1.)

§ 113-315.34. Jurisdiction of the Authority; application of Chapter 20; appointment and authority of special police.

(a) The jurisdiction of the Authority in any of the parks shall extend to all properties owned by or under control of the Authority and shall also extend over the waters and shores within the parks and over that part of all tributary streams flowing into the parks in which the tide ebbs and flows, and shall extend to the outer edge of the outer bar situated at the approach to the port of any park.

(b) All the provisions of Chapter 20 of the General Statutes relating to the use of the highways of the State and the operation of motor vehicles thereon are hereby made applicable to the streets, alleys and driveways on the properties owned by or under the control of the North Carolina Marine Industrial Park Authority. Any person violating any of the provisions of said Chapter in or on such streets, alleys or driveways shall, upon conviction thereof, be punished as therein prescribed. Nothing herein contained shall be construed as in any way interfering with the

§ 113-315.37. Liberal construction of Article.

It is intended that the provisions of this Article shall be liberally construed to accomplish the purposes provided for, or intended to be provided for, herein, and where strict construction would result in the defeat of the accomplishment of any of the acts authorized herein, and a liberal construction would permit or assist in the accomplishment thereof, the liberal construction shall be chosen. (1979, c. 459, s. 13.)

§ 113-315.38. Warehouses, wharves, etc., on property abutting navigable waters.

The powers, authority and jurisdiction granted to the North Carolina Marine Industrial Park Authority under this Article and Chapter shall not be construed so as to prevent other persons, firms and corporations, including municipalities, from owning, constructing, leasing, managing and operating warehouses, structures and other improvements on property they own, lease, or control abutting upon and adjacent to navigable waters and streams in this State, nor to prevent other persons, firms and corporations from constructing, owning, leasing and operating wharves, docks and piers associated with the warehouses, structures, and other improvements, nor to prevent other persons, firms and corporations from encumbering, leasing, selling, conveying or otherwise dealing with and disposing of the properties, facilities, lands and improvements after construction. (1979, c. 459, s. 14; 2013-211, s. 1.)

§ 113-315.39. Taxation.

The property of the Authority shall not be subject to any taxes or assessments. (1979, c. 459, s. 15; 2013-211, s. 1.)

Article 24.

Miscellaneous Transitional Provisions.

§ 113-316. General statement of purpose and effect of revisions of Subchapter IV made in 1965 and 1979.

To clarify the conservation laws of the State and the authority and jurisdiction of the Department and the North Carolina Wildlife Resources Commission: commercial fishing waters are renamed coastal fishing waters and the Department is given jurisdiction over and responsibility for the marine and estuarine resources in coastal fishing waters; the laws pertaining to commercial fishing operations and marine fishing and fisheries regulated by the Department are consolidated and revised generally and broadened to reflect the jurisdictional change respecting coastal fisheries; laws relating to the conservation of wildlife resources administered by the Wildlife Resources Commission are consolidated and revised; and the enforcement authority of marine fisheries inspectors and wildlife protectors is clarified, including the authority of wildlife protectors over boating and other activities other than conservation within the jurisdiction of the Wildlife Resources Commission. (1965, c. 957, s. 1; 1973, c. 1262, ss. 28, 86; 1977, c. 771, s. 4; 1979, c. 830, s. 1; 1989, c. 727, s. 117.)

§ 113-317. Repealed by Session Laws 1979, c. 830, s. 1.

§§ 113-318 through 113-320. Repealed by Session Laws 1973, c. 1262, s. 28.

§§ 113-321 through 113-322. Repealed by Session Laws 1979, c. 830, s. 1.

§§ 113-323 through 113-330: Reserved for future codification purposes.

Article 25.

Endangered and Threatened Wildlife and Wildlife Species of Special Concern.

§ 113-331. Definitions.

All of the definitions contained in Article 12 of this Chapter 113 shall apply in this Article except to the extent that they may be herein modified for the purposes of this Article 25. As used in this Article, unless the context requires otherwise:

- (1) "Conserve" and "conservation" mean the use and application of all methods, procedures and biological information for the purpose of bringing populations of native and once-native species of wildlife in balance with the optimum carrying capacity of their habitat, and maintaining such balance. These methods and procedures include all activities associated with scientific resource management such as research; census; law enforcement; habitat protection, acquisition, and enhancement; and restoration of species to unoccupied parts of historic range. With respect to endangered and threatened species, the terms mean the use of methods and procedures to bring the species to the point at which the measures provided are no longer necessary.
- (2) "Endangered species" means any native or once-native species of wild animal whose continued existence as a viable component of the State's fauna is determined by the Wildlife Resources Commission to be in jeopardy or any species of wild animal determined to be an "endangered species" pursuant to the Endangered Species Act.
- (3) "Endangered Species Act" means the Endangered Species Act of 1973, Public Law 93-205 (87 Stat. 884), as it may be subsequently amended.
- (4) "Advisory Committee" means the North Carolina Nongame Wildlife Advisory Committee which is the advisory body of knowledgeable and representative citizens established by resolution of the Wildlife Resources Commission and charged to consider matters relating to nongame wildlife conservation and to advise the Commission in such matters.
- (5) "Protected animal" means a species of wild animal designated by the Wildlife Resources Commission as endangered, threatened, or of special concern.
- (6) "Protected animal list" means any one of the lists of North Carolina animal species that are endangered, threatened, or of special concern.
- (7) "Scientific council" means the group of scientists identified and assembled by the Advisory Committee to review the scientific evidence and to evaluate the status of wildlife species that are candidates for inclusion on a protected animal list.
- (8) "Special concern species" means any species of wild animal native or once-native to North Carolina which is determined by the Wildlife Resources Commission to require monitoring but which may be taken under regulations adopted under the provisions of this Article.
- (9) "Threatened species" means any native or once-native species of wild animal which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range, or one that is designated as a threatened species pursuant to the Endangered Species Act.

authorize the Commission to prohibit the taking of any species of the classes Amphibia and Reptilia solely to protect persons, property, or habitat; to prohibit possession by any person of four or fewer individual reptiles; or to prohibit possession by any person of 24 or fewer individual amphibians.

(b) The Wildlife Resources Commission shall, as expeditiously as possible, develop a conservation plan for the recovery of protected wild animal species. In developing a conservation plan for a protected wild animal species, the Wildlife Resources Commission shall consider the range of conservation, protection, and management measures that may be applied to benefit the species and its habitat. The conservation plan shall include a comprehensive analysis of all factors that have been identified as causing the decline of the protected wild animal species and all measures that could be taken to restore the species. The Wildlife Resources Commission shall publish draft species conservation plans on its Web site and shall consider public comment in developing and updating species conservation plans.

(c) In implementing a conservation plan under this Article, the Wildlife Resources Commission shall not adopt any rule that restricts the use or development of private property. If a conservation plan identifies a conservation, protection, or restoration measure the implementation of which is beyond the scope of the authority of the Wildlife Resources Commission, the Commission may petition the General Assembly, any agency that has regulatory authority to implement the measure, a unit of local government, or any other public or private entity and request the assistance of that agency or entity in implementing the measure.

(d) The Commission is authorized to develop a bat eviction and exclusion curriculum that may be taught by trade associations or wildlife conservation organizations for certification. The curriculum may incorporate the training that is provided as part of Wildlife Damage Control Agent certification in best management practices for removing and evicting bats from structures and in preventing bats from reentering structures. (1987, c. 382, s. 1; 1995, c. 392, s. 1; 2003-100, s. 1; 2009-219, s. 1; 2020-74, s. 22(a).)

§ 113-334. Criteria and procedures for placing animals on protected animal lists.

(a) All native or resident wild animals which are on the federal lists of endangered or threatened species pursuant to the Endangered Species Act have the same status on the North Carolina protected animals lists.

(b) The Advisory Committee, after considering a report on the status of a candidate species from the Scientific Council, may by resolution propose to the Wildlife Resources Commission that a species of wild animal be added to or removed from a protected animal list.

(c) If the Commission, with the advice of the Advisory Committee, finds there is probably merit in the proposal, it shall examine relevant scientific and economic data and factual information necessary to determine:

- (1) Whether any other state or federal agency or private entity is taking steps to protect the wild animal which is the subject of the proposal;
- (2) Whether there is present or threatened destruction, modification, or curtailment of its habitat;
- (3) If there is over-utilization for commercial, recreational, scientific, or educational purposes;
- (4) Whether there is critical population depletion from disease, predation, or other mortality factors;
- (5) Whether alternative regulatory mechanisms exist; and

(6) The existence of other man-made factors affecting continued viability of the animal in North Carolina.

(d) The Commission, with the advice of the Advisory Committee, shall tentatively determine whether any regulatory action is warranted with regard to the proposal and, if so, the specific regulatory action to be proposed by it. Notice of its proposed rulemaking shall be published in the North Carolina Register and the subsequent proceedings shall conform with the Administrative Procedure Act. (1987, c. 382, s. 1.)

§ 113-335. North Carolina Nongame Wildlife Advisory Committee.

The North Carolina Nongame Wildlife Advisory Committee is created subject to constitution, organization, and function as determined appropriate and advisable by resolution of the Wildlife Resources Commission. The Advisory Committee is to be comprised of knowledgeable and representative citizens of North Carolina whose responsibility shall be to advise the Commission on matters related to conservation of nongame wildlife including creation of protected animal lists and development of conservation programs for endangered, threatened, and special concern species.

Members of the Advisory Committee shall receive necessary travel and subsistence expenses while on official business of the Committee in accordance with G.S. 138-5 and G.S. 138-6, to be paid from the Nongame Account of the Wildlife Resources Fund. (1987, c. 382; 1989 (Reg. Sess., 1990), c. 1066, s. 48.)

§ 113-336. Powers and duties of the Advisory Committee.

The Advisory Committee shall have the following powers and duties:

- (1) To gather and provide information and data and advise the Wildlife Resources Commission with respect to all aspects of the biology and ecology of endangered, threatened, and special concern species;
- (2) To investigate and make recommendations to the Commission as to the status of endangered, threatened, and special concern species;
- (3) To identify and assemble experts from the disciplines of ornithology, mammalogy, herpetology, ichthyology, taxonomy, ecology and other fields as necessary to serve as the Scientific Council and to charge the Scientific Council to review the scientific evidence, to evaluate the status of candidate species, and to report back their findings with recommendations;
- (4) To develop and present to the Commission management and conservation practices for preserving endangered, threatened, and special concern species;
- (5) To recommend critical habitat areas for protection or acquisition;
- (5a) To assist the Commission in developing conservation plans for the recovery of protected wild animal species, including establishing a priority order for conservation plans and determining where groups of protected species exist in shared habitats that may be addressed jointly in combined conservation plans;
- (6) To advise the Commission on matters submitted to it by the Commission which involve technical zoological questions or the development of pertinent regulations, and to make any recommendations as deemed by the Advisory Committee to be worthy of the Commission's attention. (1987, c. 382, s. 1; 2020-74, s. 22(b).)

§ 113-337. Unlawful acts; penalties.

- (a) It is unlawful:
 - (1) To take, possess, transport, sell, barter, trade, exchange, export, or offer for sale, barter, trade, exchange or export, or give away for any purpose including advertising or other promotional purpose any animal on a protected wild animal list, except as authorized according to the regulations of the Commission, including those promulgated pursuant to G.S. 113-333(1);
 - (2) To perform any act specifically prohibited by the regulations of the Commission promulgated pursuant to its authority under G.S. 113-333.
- (b) Each person convicted of violating the provisions of this Article is guilty of a Class 1 misdemeanor. (1987, c. 382, s. 1; 1999-408, s. 10.)

§§ 113-338 through 113-350: Reserved for future codification purposes.

Article 25A.

Unified Licenses.

§ 113-351. Unified hunting and fishing licenses; subsistence license waiver.

- (a) Definitions. – The definitions set out in G.S. 113-174 apply to this Article.
- (b) General Provisions Governing Licenses and Waivers. – The general provisions governing licenses set out in G.S. 113-174.1 apply to licenses and waivers issued under this section.
- (c) Types of Unified Hunting and Fishing Licenses; Fees; Duration. – The Wildlife Resources Commission shall issue the following Unified Hunting and Fishing Licenses:
 - (1) Annual Resident Unified Sportsman/Coastal Recreational Fishing License. – \$65.00. This license is valid from the date of issue for a period of 12 months as defined by G.S. 113-270.1B(b) and G.S. 113-270.1B(c). This license shall be issued only to an individual who is a resident of the State. This license authorizes the licensee to take all wild animals and wild birds, including waterfowl, by all lawful methods in all open seasons, including the use of game lands; to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout waters; and to engage in recreational fishing in coastal fishing waters.
 - (2) Annual Resident Unified Inland/Coastal Recreational Fishing License. – \$40.00. This license is valid from the date of issue for a period of 12 months as defined by G.S. 113-270.1B(b) and G.S. 113-270.1B(c). This license shall be issued only to an individual who is a resident of the State. This license authorizes the licensee to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout waters, and to engage in recreational fishing in coastal fishing waters.
 - (3) Lifetime Unified Sportsman/Coastal Recreational Fishing Licenses. – A license issued under this subdivision is valid for the lifetime of the licensee. A license issued under this subdivision authorizes the licensee to take all wild animals and wild birds, including waterfowl, by all lawful methods in all open seasons, including the use of game lands; to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout

individual who is a resident of the State and who has been certified by the Department of Health and Human Services as an individual whose vision with glasses is insufficient for use in ordinary occupations for which sight is essential. This license remains valid for the lifetime of the licensee so long as the licensee remains legally blind.

c. Resident Adult Care Home Lifetime Unified Inland/Coastal Recreational Fishing License. – No charge. This license shall be issued only to an individual who is a resident of the State and who resides in an adult care home as defined in G.S. 131D-2.1 or G.S. 131E-101(1). This license remains valid for the lifetime of the licensee so long as the licensee remains a resident of an adult care home.

(d) Resident Subsistence Unified Inland/Coastal Recreational Fishing License Waiver. – A county department of social services shall issue a Resident Subsistence Unified Inland/Coastal Recreational Fishing License Waiver to an individual who receives benefits from Medicaid, Food and Nutrition Services, or Work First Family Assistance through the county department of social services and who requests a waiver. This waiver shall be issued at no charge. This waiver is valid for a period of one year from the date of issuance. This waiver shall be issued only to an individual who is a resident of the State. This waiver authorizes the waiver holder to fish with hook and line for all fish in all inland fishing waters and joint fishing waters, including public mountain trout waters, and to engage in recreational fishing in coastal fishing waters. County departments of social services shall supply the Wildlife Resources Commission with the name, mailing address, and telephone number of each individual who receives a waiver. (2005-455, s. 1.16; 2006-79, s. 2; 2006-255, s. 10; 2007-97, s. 14; 2009-462, s. 4(e); 2013-283, s. 10; 2014-100, s. 14.25(d); 2019-204, s. 4; 2021-160, s. 8(b); 2022-65, s. 5.)

§§ 113-352 through 113-377: Reserved for future codification purposes.

Article 26.

Marine Fisheries Compact and Commission.

§§ 113-377.1 through 113-377.7: Transferred to §§ 113-252 through 113-258 by Session Laws 1965, c. 957.

SUBCHAPTER IV-A. REPEALS.

Article 26A.

Repeal of Acts.

§ 113-377.8. Repeal of certain public, public-local, special and private acts.

The following public, public-local, special and private acts are hereby repealed: Chapter 36 of the Public Laws of 1901; Chapter 113 of the Public Laws of 1901; Chapter 260 of the Public Laws of 1901; Chapter 308 of the Public Laws of 1901; Chapter 326 of the Public Laws of 1901; Chapter 370 of the Public Laws of 1901; Chapter 431 of the Public Laws of 1901; Chapter 435 of the Public Laws of 1901; Chapter 475 of the Public Laws of 1901; Chapter 589 of the Public Laws of 1901; Chapter 673 of the Public Laws of 1901; Chapter 702 of the Public Laws of 1901; Chapter 771 of the Public Laws of 1901; Chapter 131 of the Public Laws of 1903; Chapter 414 of the Public Laws of 1903; Chapter 520 of the Public Laws of 1903; Chapter 631 of the Public Laws of 1903; Chapter 650 of the Public Laws of 1903; Chapter 658 of the Public Laws of 1903; Chapter 668 of the Public

Laws of 1903; Chapter 732 of the Public Laws of 1903; Chapter 752 of the Public Laws of 1903; Chapter 86 of the Public Laws of 1905; Chapter 265 of the Public Laws of 1905; Chapter 283 of the Public Laws of 1905; Chapter 351 of the Public Laws of 1905; Chapter 363 of the Public Laws of 1905; Chapter 500 of the Public Laws of 1905; Chapter 560 of the Public Laws of 1905; Chapter 386 of the Public Laws of 1907; Chapter 572 of the Public Laws of 1907; Chapter 690 of the Public Laws of 1907; Chapter 811 of the Public Laws of 1907; Chapter 977 of the Public Laws of 1907; Chapter 426 of the Public Laws of 1909; Chapter 466 of the Public Laws of 1909; Chapter 585 of the Public Laws of 1909; Chapter 755 of the Public Laws of 1909; Chapter 871 of the Public Laws of 1909; Chapter 525 of the Public-Local Laws of 1911; Chapter 547 of the Public-Local Laws of 1911; Chapter 572 of the Public-Local Laws of 1913; Chapter 587 of the Public-Local Laws of 1913; Chapter 402 of the Private Laws of 1913; Chapter 58 of the Public-Local Laws, Extra Session of 1913; Chapter 211 of the Public-Local Laws, Extra Session of 1913; Chapter 30 of the Public Laws of 1915; Chapter 180 of the Public Laws of 1915; Chapter 610 of the Public-Local Laws of 1915; Chapter 599 of the Public-Local Laws of 1917; Chapter 202 of the Public-Local Laws, Extra Session 1920; Chapter 114 of the Public-Local Laws of 1921; Chapter 384 of the Public-Local Laws of 1921; Chapter 432 of the Public-Local Laws of 1921; Chapter 439 of the Public-Local Laws of 1921; Chapter 157 of the Public-Local Laws, Extra Session of 1921; Chapter 130 of the Public-Local Laws of 1923; Chapter 352 of the Public-Local Laws of 1923; Chapter 533 of the Public-Local Laws of 1923; Chapter 548 of the Public-Local Laws of 1923; Chapter 461 of the Public-Local Laws of 1925; Chapter 623 of the Public-Local Laws of 1925; Chapter 228 of the Public-Local Laws of 1927; Chapter 208 of the Public-Local Laws of 1929; Chapter 42 of the Public Laws of 1933; Chapter 51 of the Public Laws of 1933; Chapter 241 of the Public-Local Laws of 1933; Chapter 575 of the Public-Local Laws of 1933; Chapter 365 of the Public-Local Laws of 1935; Chapter 368 of the Public-Local Laws of 1935; Chapter 509 of the Public-Local Laws of 1935; Chapter 513 of the Public-Local Laws of 1935; Chapter 352 of the Public Laws of 1937; Chapter 266 of the Public-Local Laws of 1937; Chapter 632 of the Public-Local Laws of 1937; Chapter 265 of the Public Laws of 1939; Chapter 138 of the Public-Local Laws of 1939; Chapter 179 of the Public-Local Laws of 1939; Chapter 335 of the Public-Local Laws of 1941; Chapter 221 of the Special Laws of 1947; Chapter 485 of the Special Laws of 1947; Chapter 1017 of the Special Laws of 1947; Chapter 1031 of the Special Laws of 1949.

Provided that any public, public-local, special or private law herein repealed may be covered by a regulation of the Board of Conservation and Development to effectuate the same privileges or protection therein provided upon the petition of either the representative or senator from that county or district filed within six months from the date of ratification. (1951, c. 1045, s. 2.)

SUBCHAPTER V. OIL AND GAS CONSERVATION.

Article 27.

Oil and Gas Conservation.

Part 1. General Provisions.

§ 113-378. Persons drilling for oil or gas to register and furnish bond.

Any person, firm or corporation before making any drilling exploration in this State for oil or natural gas shall register with the Department of Environmental Quality. To provide for such registration, the drilling operator must furnish the name and address of such person, firm or corporation, and the location of the proposed drilling operations, and file with the Department a bond running to the State of North Carolina in an amount totaling the sum of (i) five thousand dollars (\$5,000) plus (ii) one dollar (\$1.00) per linear foot proposed to be drilled for the well. Any

- (7b) "Oil and gas operations" or "activities" shall mean the exploration for or drilling of an oil and gas well that requires entry upon surface estate and the production operations directly related to the exploration or drilling.
- (8) "Owner" shall mean the person who has the right to drill into and to produce from any pool, and to appropriate the production either for himself or for himself and others.
- (9) "Person" shall mean any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind.
- (10) "Pool" shall mean an underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of a general structure which is completely separated from the other zone in the structure is covered by the term "pool" as used herein.
- (11) "Producer" shall mean the owner of a well or wells capable of producing oil or gas, or both.
- (12) "Product" means any commodity made from oil or gas and shall include refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casing-head gasoline, natural gas gasoline, naphtha, distillate, gasoline, kerosene, benzine, wash oil, waste oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or by-products derived from oil or gas, and blends or mixtures of two or more liquid products or by-products derived from oil or gas, whether hereinabove enumerated or not.
- (12a) "Proppant" shall mean sand or any natural or man-made material that is used in a hydraulic fracturing treatment to prop open the artificially created or enhanced fractures once the treatment is completed.
- (12b) "Surface owner" means the person who holds record title to or has a purchaser's interest in the surface of real property.
- (13) "Tender" shall mean a permit or certificate of clearance for the transportation of oil, gas or products, approved and issued or registered under the authority of the Department.
- (14) "Waste" in addition to its ordinary meaning, shall mean "physical waste" as that term is generally understood in the oil and gas industry. It shall include:
- a. The inefficient, excessive or improper use or dissipation of reservoir energy; and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well or wells in a manner which results, or tends to result, in reducing inefficiently the quantity of oil or gas ultimately to be recovered from any pool in this State.
 - b. The inefficient storing of oil, and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well or wells in a manner causing, or tending to cause, unnecessary or excessive surface loss or destruction of oil or gas.
 - c. Abuse of the correlative rights and opportunities of each owner of oil and gas in a common reservoir due to nonuniform, disproportionate, and unratable withdrawals causing undue drainage between tracts of land.

- of mechanisms to prevent and diagnose sources of groundwater contamination in the area of drilling sites. In formulating these requirements, the Commission shall consider (i) how North Carolina's geology differs from other states where oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments are common and (ii) the routes of possible groundwater contamination resulting from these activities and the potential role of vertical geological structures such as dikes and faults as conduits for groundwater contamination.
- b. Collection of baseline data, including groundwater, surface water, and air quality in areas where oil and gas exploration and development activities are proposed. With regard to rules applicable to baseline data for groundwater and surface water, the Commission shall adopt rules that, at a minimum, establish standards to satisfy the pre-drilling testing requirement established under G.S. 113-421(a), including contaminants for which an operator or developer must test and necessary qualifications for persons conducting such tests.
 - c. Appropriate construction standards for oil and gas wells, which shall address the additional pressures of horizontal drilling and hydraulic fracturing treatments. These rules, at a minimum, shall include standards for casing and cementing sufficient to handle highly pressurized injection of hydraulic fracturing fluids into a well for purposes of fracturing bedrock and extraction of gas, and construction standards for other gas production infrastructure, such as storage pits and tanks.
 - d. Appropriate siting standards for wells and other gas production infrastructure, such as storage pits and tanks, including appropriate setback requirements and identification of areas, such as floodplains, where oil and gas exploration and production activities should be prohibited. Siting standards adopted shall be consistent with any applicable water quality standards adopted by the Environmental Management Commission or by local governments pursuant to water quality statutes, including standards for development in water supply watersheds.
 - e. Limits on water use, including, but not limited to, a requirement that oil and gas operators prepare and have a water and wastewater management plan approved by the Department, which, among other things, limits water withdrawals during times of drought and periods of low flows. Rules adopted shall be (i) developed in light of water supply in the areas of proposed activity, competing water uses in those areas, and expected environmental impacts from such water withdrawals and (ii) consistent with statutes, and rules adopted by the Environmental Management Commission pursuant to those statutes, which govern water quality and management of water resources, including, but not limited to, statutes and rules applicable to water withdrawal registration, interbasin transfer

requirements, and water quality standards related to wastewater discharges.

- f. Management of wastes produced in connection with oil and gas exploration and development and use of horizontal drilling and hydraulic fracturing treatments for that purpose. Such rules shall address storage, transportation, and disposal of wastes that may contain radioactive materials or wastes that may be toxic or have other hazardous wastes' characteristics that are not otherwise regulated as a hazardous waste by the federal Resource Conservation and Recovery Act (RCRA), such as top-hole water, brines, drilling fluids, additives, drilling muds, stimulation fluids, well servicing fluids, oil, production fluids, and drill cuttings from the drilling, alteration, production, plugging, or other activity associated with oil and gas wells. Wastes generated in connection with oil and gas exploration and development and use of horizontal drilling and hydraulic fracturing treatments for that purpose that constitute hazardous waste under RCRA shall be subject to rules adopted by the Environmental Management Commission to implement RCRA requirements in the State.
- g. Prohibitions on use of certain chemicals and constituents in hydraulic fracturing fluids, particularly diesel fuel.
- h. Disclosure of chemicals and constituents used in oil and gas exploration, drilling, and production, including hydraulic fracturing fluids, to State regulatory agencies and to local government emergency response officials, and, with the exception of those items constituting trade secrets, as defined in G.S. 66-152(3), and that are designated as confidential or as a trade secret under G.S. 132-1.2, requirements for disclosure of those chemicals and constituents to the public.
- i. Installation of appropriate safety devices and development of protocols for response to well blowouts, chemical spills, and other emergencies, including requirements for approved emergency response plans and certified personnel to implement these plans as needed.
- j. Measures to mitigate impacts on infrastructure, including damage to roads by truck traffic and heavy equipment, in areas where oil and gas exploration and development activities that use horizontal drilling and hydraulic fracturing technologies are proposed to occur.
- k. Notice, record keeping, and reporting.
- l. Proper well closure, site reclamation, post-closure monitoring, and financial assurance. Rules for financial assurance shall require that an oil or gas developer or operator establish financial assurance that will ensure that sufficient funds are available for well closure, post-closure maintenance and monitoring, any corrective action that the Department may require, and to satisfy any potential liability for sudden and nonsudden accidental occurrences, and subsequent costs incurred by the Department in response to an incident involving a drilling operation, even if the developer or operator becomes insolvent or ceases to reside, be incorporated, do business, or maintain assets in the State.

- (6) Repealed by Session Laws 2014-4, s. 9, effective June 4, 2014.
- (7) To require the making of reports showing the location of oil and gas wells and the filing of logs and drilling records.
- (8) To prevent "blowouts," "caving," and "seepage," as such terms are generally understood in the oil and gas industry.
- (9) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures, and all storage and transportation equipment and facilities.
- (10) To regulate the "shooting," perforating, and chemical treatment of wells.
- (11) To regulate secondary recovery methods, including the introduction of gas, air, water, or other substances into producing formations.
- (12) To regulate the spacing of wells and to establish drilling units.
- (13) To regulate and, if necessary in its judgment for the protection of unique environmental values, to prohibit the location of wells in the interest of protecting the quality of the water, air, soil, or any other environmental resource against injury, damage, or impairment.
- (13a) Criteria to set the amount of a bond required pursuant to G.S. 113-421(a3), including, at a minimum, the number of wells proposed at a site, the pre-drilling condition of the property, the amount of acreage that would be impacted by the proposed oil and gas activities, and other factors designed to enable establishment of bonds on a site-by-site basis.
- (14) Any other matter the Commission deems necessary for implementation of a modern regulatory program for the management of oil and gas exploration and development in the State and the use of horizontal drilling and hydraulic fracturing for that purpose.

(a1) The regulatory program required to be established and the rules required to be adopted pursuant to subsection (a) of this section shall not include a program or rules for the regulation of oil and gas exploration and development in the waters of the Atlantic Ocean and the coastal sounds as defined in G.S. 113A-103.

(a2) In addition to the matters for which the Commission is required to adopt rules pursuant to subsection (a) of this section, the Commission may adopt rules as it deems necessary for any of the following purposes:

- (1) To require the operation of wells with efficient gas-oil ratios and to fix such ratios.
- (2) To limit and prorate the production of oil or gas, or both, from any pool or field for the prevention of waste as defined in this Article and rules adopted thereunder.
- (3) To require, either generally or in or from particular areas, certificates of clearance or tenders in connection with the transportation of oil or gas.
- (4) To prevent, so far as is practicable, reasonably avoidable drainage from each developed unit which is not equalized by counter-drainage.

(a3) The Environmental Management Commission shall adopt rules, after consideration of recommendations from the Oil and Gas Commission, for all of the following purposes:

- (1) Stormwater control for sites on which oil and gas exploration and development activities are conducted.

prevented. In allocating the "allowable" for the State, and in fixing "allowables" for pools producing oil or hydrocarbons forming condensate, or both oil and such hydrocarbons, the Commission may take into account the producing conditions and other relevant facts with respect to such pools, including the separate needs for oil, gas and condensate, and may formulate rules setting forth standards or a program for the distribution of the "allowable" for the State, and distribute the "allowable" for the State in accordance with such standards or program, and where conditions in one pool or area are substantially similar to those in another pool or area, then the same standards or programs shall be applied to such pools and areas so that as far as practicable a uniform program will be followed; provided, however, the Commission shall allow the production of a sufficient amount of natural gas from any pool to supply adequately the reasonable market demand for such gas for light and fuel purposes if such production can be obtained without waste, and the condensate "allowable" for such pool shall not be less than the total amount of condensate produced or obtained in connection with the production of the gas "allowable" for light and fuel purposes, and provided further that, if the amount allocated to pool as its share of the "allowable" for the State is in excess of the amount which the pool should produce to prevent waste, then the Commission shall fix the "allowable" for the pool so that waste will be prevented.

In allocating "allowables" to pools, the Commission shall not be bound by nominations or desires of purchasers to purchase oil from particular fields or areas, and the Commission shall allocate the "allowable" for the State in such manner as will prevent undue discrimination against any pool or area in favor of another or others which would result from selective buying or nominating by purchasers of oil, as such term "selective buying or nominating" is understood in the oil business.

(b) Repealed by Session Laws 2013-365, s. 4, effective July 29, 2013.

(c) Whenever the Commission limits the total amount of oil or gas which may be produced in any pool in this State to an amount less than that which the pool could produce if no restrictions were imposed (which limitation may be imposed either incidental to, or without, a limitation of the total amount of oil or gas which may be produced in the State), the Commission shall prorate or distribute the "allowable" production among the producers in the pool on a reasonable basis, and so that each producer will have the opportunity to produce or receive his just and equitable share, as such share is set forth in subsection G.S. 113-392(d), subject to the reasonable necessities for the prevention of waste.

(d) Whenever the Commission limits the total amount of gas which may be produced from a pool, the Commission shall then allocate or distribute the allowable production among the developed areas in the pool on a reasonable basis, so that each producer will have the opportunity to produce his just and equitable share, as such share is set forth in subsection G.S. 113-392(d), whether the restriction for the pool as a whole is accomplished by order or by the automatic operation of the prohibitory provisions of this law. As far as applicable, the provisions of subsection (a) of this section shall be followed in allocating any "allowable" of gas for the State.

(e) After the effective date of any rule or order of the Commission fixing the "allowable" production of oil or gas, or both, or condensate, no person shall produce from any well, lease, or property more than the "allowable" production which is fixed, nor shall such amount be produced in a different manner than that which may be authorized. (1945, c. 702, s. 14; 1973, c. 1262, s. 86; 1975, c. 19, ss. 37, 38; 1987, c. 827, s. 112; 2012-143, s. 2(e); 2013-365, s. 4.)

§ 113-395. Permits, fees, and notice required for oil and gas activities.

the scope of the review of the environmental compliance history of the applicant, parents, subsidiaries, or other affiliates of the applicant or parent, including any business entity or joint venturer with a direct or indirect interest in the applicant, and of other facilities owned or operated by any of them. An applicant for a permit shall provide environmental compliance history information for each facility, business entity, joint venture, or other undertaking in which any of the persons listed in this subsection is or has been an owner, operator, officer, director, manager, member, or partner, or in which any of the persons listed in this subsection has had a direct or indirect interest as requested by the Department.

(c) The Department shall determine the extent to which the applicant, or a parent, subsidiary, or other affiliate of the applicant or parent, or a joint venturer with a direct or indirect interest in the applicant, has substantially complied with the requirements applicable to any activity in which any of these entities previously engaged and has substantially complied with federal, North Carolina, and other states' laws, regulations, and rules for the protection of the environment. The Department may deny an application for a permit if the applicant has a history of significant or repeated violations of statutes, rules, orders, or permit terms or conditions for the protection of the environment or for the conservation of natural resources as evidenced by civil penalty assessments, administrative or judicial compliance orders, or criminal penalties.

(d) A permit holder shall notify the Department of any significant change in its environmental compliance history or any significant change in the (i) identity of any person or structure of the business entity that holds the permit for the facility; (ii) identity of any person or structure of the business entity that owns or operates the facility; or (iii) assets of the permit holder, owner, or operator of the facility. The permit holder shall notify the Department within 30 days of a significant change. A change shall be considered significant if it would result in a change in the identity of the permit holder, owner, or operator for purposes of environmental compliance review. Based on its review of the changes, the Department may modify or revoke a permit, or require issuance of a new permit. (2014-4, s. 15(a).)

§ 113-395.4. Seismic or geophysical data collection.

(a) Notwithstanding any other provision of law, no liability for trespass shall arise from activities conducted for the purpose of seismic or geophysical data collection. Provided, however, (i) persons conducting seismic and geophysical data collection may only conduct such activity by undershooting from an off-site location and without physical entry to private land, unless the landowner's consent for such activity is obtained in writing and (ii) persons conducting seismic or geophysical data collection shall be civilly liable for any physical or property damage determined to be a direct result of their seismic or geophysical data collection activities, whether or not the seismic or geophysical data collection was conducted by undershooting the land at an off-site location or by physical entry to land as permitted by the landowner.

(b) Conduct of seismic or geophysical data collection activities through physical entry to land without a landowner's written consent shall constitute a Class 1 misdemeanor. (2014-4, s. 15(a).)

§ 113-396. Wells to be kept under control.

In order to protect further the natural gas fields and oil fields in this State, it is hereby declared to be unlawful for any person to permit negligently any gas or oil well to go wild or to get out of control. The owner of any such well shall, after 24 hours' written notice by the Department given to him or to the person in possession of such well, make reasonable effort to control such well.

