



SENATE BILL 317: Marine Fisheries Reform.

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2021-2022 General Assembly

Committee:	Senate Agriculture, Energy, and Environment.	Date:	March 30, 2021
	If favorable, re-refer to Rules and Operations of the Senate		
Introduced by:	Sen. Sanderson	Prepared by:	Kyle Evans
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: *Senate Bill 317 would amend the process for managing marine fisheries in North Carolina.*

CURRENT LAW AND BILL ANALYSIS:

Amend Fisheries Management Process

The marine fisheries resources of the State are largely managed through the Fishery Management Plan Process. The Division of Marine Fisheries (DMF) of the Department of Environmental Quality (DEQ) prepares proposed Fishery Management Plans (FMPs) for adoption by the Marine Fisheries Commission (MFC) for all commercially or recreationally significant species or fisheries. The goal of the FMPs is to ensure the long term viability of the State's commercially and recreationally significant species or fisheries.

Section 1.1 would repeal the existing FMP statute and recodify it with the following changes:

- Provide that FMPs do not have to be prepared for species regulated under a federal or interstate fishery management plan.
- Provide that FMPs and management measures to implement them should be based on fishery management standards and best available scientific, technical, and economic data.
- Provide that FMPs will be developed according to a schedule determined by DMF rather than the MFC. DMF may revise the schedule and the MFC may make recommendations regarding such revisions.
- Provide that FMPs may only be modified through a FMP Amendment.
- Provide that adjustments to the time periods in FMPs and FMP Amendments may be proposed by the Fisheries Director to be adopted by the MFC and must be based on science-based methodology.
- Provide that the Fisheries Director will recommend qualified candidates to the Chair of the MFC for appointment to FMP Advisory Committees.
- Provide that a FMP may be retired if the objectives of the FMP are assured under a federal or interstate fishery management plan or the species is no longer a significant fishery to the State.
- Clarify when temporary management measures may be used and provide a larger role for DMF in the development of such measures.

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Section 1.2 would amend the Fisheries Director's proclamation authority to provide that proclamations must be consistent with FMP management measures.

Section 1.1(a) and 1.1(b) would become effective July 1, 2021 and would apply to Fishery Management Plans and Plan Amendments developed on or after that date. Fishery Management Plans and Plan Amendments that were under development prior to July 1, 2021 would continue under the process set out in G.S. 113-182.1, as would be repealed by Section 1.1(a) of this act.

Amend Marine Fisheries Commission

The MFC is charged with adopting rules for the management, protection, preservation, and enhancement of the marine resources of the State. The MFC is composed of nine members appointed by the Governor as follows:

- 2 commercial fishing seats.
- 1 fish dealer seat.
- 2 recreational fishing seats.
- 1 recreational fishing industry seat.
- 2 seats for persons with general knowledge of and experienced related to marine fisheries.
- 1 fisheries scientist seat.

Section 2.1 would make the following changes to the powers of the MFC:

- Provide that rules adopted by the MFC must be based on recognized fishery management standards and the best available scientific, technical, and economic data.
- Provide that the MFC has the power and duty to regulate the importation and exportation of non-native species.

Section 2.2 would make the following changes to the membership of the MFC:

- Repeal the provision that would allow the spouse of a commercial fisherman to serve in a commercial fishing seat.
- Change one of the general knowledge and experience seats to a seat for a habitat, water quality, or ecosystem scientist.
- Change one of the general knowledge and experience seats to a seat for a fisheries scientist.

The changes to the requirements for membership on the MFC would not affect any members sitting on the MFC at the time the bill became law.

- Clarify that oral communications between a majority of members of the MFC constitutes an official meeting.
- Require the MFC to publish written agendas for its meetings and prohibit the MFC from adding items to the agenda once the meeting has been convened.

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Section 2.3 would require the MFC to provide written reasons to any of its advisory committees if it rejects their recommendations.

Amend Enforcement of Marine Fisheries Law

Prior to 2015, it was unlawful to refuse to allow Marine Fisheries Inspectors and Wildlife Protectors to inspect weapons, equipment, fish, or wildlife that the officer reasonably believed to be possessed incident to an activity regulated by marine fisheries or wildlife laws.

In 2015, the General Assembly amended this requirement to provide that:

- Marine Fisheries Inspectors and Wildlife Protectors must have reasonable suspicion that a violation of law has occurred in order to inspect weapons and equipment.
- Marine Fisheries Inspectors and Wildlife Protectors could not generally inspect weapons, equipment, fish, or wildlife in the absence of a person in apparent control of the item to be inspected.

Section 3.1 would return the law to the pre-2015 requirements.

Miscellaneous Amendments to Marine Fisheries Law

Sections 4.1 through 4.5 would make the following miscellaneous changes to marine fisheries laws:

- Explicitly state that the MFC does not have jurisdiction over matters clearly within the jurisdiction of the Department of Environmental Quality (DEQ).
- Provide that the MFC's authority to adopt rules regulating the exportation and importation of fish and equipment includes regulation of holding or maintaining fish in marine aquaculture operations and regulation of non-native species.
- Provide that information that DEQ must hold as confidential includes confidential federal fishery data and records maintained by and received from the National Oceanic and Atmospheric Administration.
- Repeal and recodify the duties and powers of DEQ to administer and enforce marine fisheries laws.
- Provide that the MFC may adopt by reference interstate laws, regulations, and management measures as State rules.

EFFECTIVE DATE: Except as otherwise provided, this act would become effective when it becomes law.

Jeff Hudson, Legislative Analysis Division Director, substantially contributed to this summary.