

Rulemaking

August 2024 Quarterly Business Meeting

Document

Rule Suspensions Memo

Rulemaking Update Memo

2023-2024 Rulemaking Cycle
Timeline

2024-2025 Rulemaking Cycle
Timeline

Fiscal Impact Analysis of Proposed
Amendment of Rule 15A NCAC 03J
.0301 related to Fishing Pot Marking
Requirements

Fiscal Impact Analysis of Proposed
False Albacore Management Rule

Fiscal Impact Analysis of Proposed
Interstate Wildlife Violator Compact
Rules



ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

KATHY B. RAWLS
Director

August 8, 2024

MEMORANDUM

TO: N.C. Marine Fisheries Commission

FROM: Jason Rock, Fisheries Management Section Chief

SUBJECT: Temporary Rule Suspensions

Issue

In accordance with the North Carolina Division of Marine Fisheries Resource Management Policy Number 2014-2, Temporary Rule Suspension, the North Carolina Marine Fisheries Commission will vote on any new rule suspensions that have occurred since the last meeting of the commission.

Findings

The Marine Fisheries Commission approved Amendment 2 to the North Carolina Striped Mullet Fishery Management Plan which adopted a reduced possession limit for the recreational fishery. To implement Amendment 2 management measures, the director suspended a portion of NCMFC Rule 15A NCAC 03M .0502 MULLET which sets a 200 mullet per person per day recreational possession limit. The suspension of this rule was needed to issue proclamation [FF-27-2024](#) which reduced the recreational possession limit of mullet from 200 mullet per person per day to 100 mullet per person per day and no more than 400 mullet per vessel per day if more than four people are on board. It also allows for-hire vessels to possess these limits in advance of a for-hire trip.

The Marine Fisheries Commission approved Amendment 2 to the North Carolina Shrimp Fishery Management Plan which adopted a year-round trawl closure in all crab spawning sanctuaries. To implement Amendment 2 management measures, the director suspended a portion of NCMFC Rule 15A NCAC 03L .0205 CRAB SPAWNING SANCTUARIES which sets seasonal closure periods for trawls in all crab spawning sanctuaries. The suspension of this rule was needed to implement proclamation [M-13-2024](#) which prohibited the use of trawls in all crab spawning sanctuaries year-round.

Action Needed

****Vote to suspend section (a) of NCMFC Rule 15A NCAC 03M .0502 MULLET for an indefinite period****

****Vote to suspend section (a) of NCMFC Rule 15A NCAC 03L .0205 CRAB SPAWNING SANCTUARIES for an indefinite period****



ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

KATHY B. RAWLS
Director

Overview

In accordance with policy, the division will report current rule suspensions previously approved by the commission as non-action items. They include:

NCMFC Rule 15A NCAC 03O .0501 (e)(4) PROCEDURES AND REQUIREMENTS TO OBTAIN PERMITS

Suspension of a portion of this rule for an indefinite period. Suspension of this rule allows the division to issue the Shellfish Relocation Permit to permittees already issued a Division of Coastal Management permit for development activity. This suspension was implemented in Proclamation [M-11-2023](#).

NCMFC Rule 15A NCAC 03M .0515 (a)(2) DOLPHIN

Suspension of a portion of this rule for an indefinite period. Suspension of this rule allows the division to adjust the recreational vessel limit to complement management of dolphin under the South Atlantic Fishery Management Council's Amendment 10 to the Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic. This suspension was implemented in Proclamation [FF-30-2022](#).

NCMFC Rule 15A NCAC 03L .0105 (2) RECREATIONAL SHRIMP LIMITS

Suspension of a portion of this rule for an indefinite period. Suspension of this rule allows the division to modify the recreational possession limit of shrimp by removing the four quarts heads on and two and a half quarts heads off prohibition from waters closed to shrimping in accordance with Amendment 2 to the North Carolina Shrimp Fishery Management Plan. This suspension was implemented in Proclamation [SH-4-2022](#).

NCMFC Rule 15A NCAC 03J .0103 (h) GILL NETS, SEINES, IDENTIFICATION, RESTRICTIONS

Suspension of a portion of this rule for an indefinite period. Suspension of this rule allows the division to implement year-round small mesh gill net attendance requirements in certain areas of the Tar-Pamlico and Neuse rivers systems. This action was taken as part of a department initiative to review existing small mesh gill net rules to limit yardage and address attendance requirements in certain areas of the state. This suspension continues in Proclamation [M-10-2024](#).

NCMFC Rule 15A NCAC 03L .0103 (a)(1) PROHIBITED NETS, MESH LENGTHS AND AREAS



ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

KATHY B. RAWLS
Director

Suspension of a portion of this rule for an indefinite period. Suspension of this rule allows the division to adjust trawl net minimum mesh size requirements in accordance with Amendment 2 to the North Carolina Shrimp Fishery Management Plan. This suspension was implemented in Proclamation SH-3-2019 and continues in Proclamation [SH-1-2022](#).

NCMFC Rule 15A NCAC 03J .0501 (e)(2) DEFINITIONS AND STANDARDS FOR POUND NETS AND POUND NET SETS

Suspension of a portion of this rule for an indefinite period. Suspension of this rule allows the division to increase the minimum mesh size of escape panels for flounder pound nets in accordance with Amendment 2 of the North Carolina Southern Flounder Fishery Management Plan. This suspension was implemented in proclamation [M-34-2015](#) and continues in Proclamation [M-9-2024](#).

NCMFC Rule 15A NCAC 03Q .0107 (4) SPECIAL REGULATIONS: JOINT WATERS

Suspension of a portion of this rule for an indefinite period. Suspension of this rule allows the division to adjust the creel limit for American shad under the management framework of the North Carolina American Shad Sustainable Fishery Plan. This suspension was continued in Proclamation [FF-6-2024](#).



ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

KATHY B. RAWLS
Director

August 7, 2024

MEMORANDUM

TO: N.C. Marine Fisheries Commission

FROM: Catherine Blum, Rulemaking Coordinator
Marine Fisheries Commission Office

SUBJECT: Rulemaking Update

Issue

Update the N.C. Marine Fisheries Commission (MFC) on the status of rulemaking in support of the 2023-2024 rulemaking cycle. Request the MFC vote on approval of Notice of Text for Rulemaking to begin the process for eight rules in the 2024-2025 rulemaking cycle.

Findings

- 2023-2024 Rulemaking Cycle – Update
 - At its May 2023 business meeting, the MFC began the process for 103 rules in this cycle.
 - On April 1, 2024, 80 of these rules became effective; three additional rules became effective June 17, 2024, following legislative review.
 - At its May 2024 business meeting, the MFC gave final approval of the remaining 20 rules. The rules received final approval at the July 31 Rules Review Commission (RRC) meeting.
 - Two of these rules became effective August 1, 2024. The remaining 18 rules are automatically subject to legislative review during the 2025 long session and thus, will have a delayed effective date.
- 2024-2025 Rulemaking Cycle – Action
 - At its February 2024 business meeting, the MFC selected its preferred management option and associated proposed language for rulemaking for the "Simplify Pot Marking Requirements" (one rule) and "False Albacore Management" (one rule) issue papers.
 - At its May 2024 business meeting, the MFC selected its preferred management option and associated proposed language for rulemaking for the "Interstate Wildlife Violator Compact" (six rules) issue paper.
 - A fiscal analysis approved by the Office of State Budget and Management (OSBM) for each of these subjects has been received and the rulemaking process is ready to begin.

Action Needed

The MFC will be asked to vote on approval of Notice of Text for Rulemaking to begin the process for the eight rules in the 2024-2025 rulemaking cycle, covering three subjects.

Recommendation

The N.C. Division of Marine Fisheries (DMF) recommends the MFC vote on approval to begin the rulemaking process for eight rules. For more information, please refer to the rulemaking section of the briefing materials.

2023-2024 Rulemaking Cycle Update (20 of 103 rules remaining)

At its May 2023 business meeting, the MFC approved Notice of Text for Rulemaking to begin the process for 103 rules. A table showing the timing of the steps in the process is included in the rulemaking section of the briefing materials. A news release was issued August 1, 2023, and the proposed rules were published in the August 1, 2023, issue of the *N.C. Register*, beginning the public comment process.

The MFC accepted public comments on the proposed rules from August 1 through 5 p.m. October 2, 2023. A public hearing was held via WebEx with a listening station at the DMF's Central District Office in Morehead City on August 16 at 6 p.m. The MFC received the public comments at its November 2023 business meeting and gave final approval of 83 of the 103 rules that are related to shellfish plants and inspections, to meet readoption deadlines. There are 80 rules that became effective on April 1, 2024. Three rules were automatically subject to legislative review per Session Law 2019-198 and N.C.G.S. § 14-4.1 and became effective June 17, 2024. These 83 rules are available in the [latest supplement](#) to the April 1, 2020 North Carolina Marine Fisheries Commission Rules (see <https://www.deq.nc.gov/about/divisions/marine-fisheries/rules-proclamations-and-size-and-bag-limits/rules>).

At its May 2024 business meeting, the MFC was again provided a copy of the public comments received for this rulemaking cycle and then gave final approval of the remaining 20 rules. A summary of these proposed rules by subject is provided below. The rules received final approval at the July 31 RRC meeting. Two rules became effective August 1, 2024 (15A NCAC 03K .0110, 03R .0117) and are available in the [latest supplement](#) to the April 1, 2020 North Carolina Marine Fisheries Commission Rules. The remaining 18 rules will be automatically subject to legislative review per Session Law 2019-198 and N.C.G.S. § 14-4.1 during the 2025 long session and thus, will have a delayed effective date.

READOPTON OF SHELLFISH PLANT AND INSPECTION RULES IN 15A NCAC 18A .0300 THROUGH .0800 (2 of 85 rules remaining)

Pursuant to N.C.G.S. § 150B-21.3A, this package of 85 rules in 15A NCAC 03K and 18A consisted of the readoption of one rule with no changes, readoption of 55 rules with amendments, repeal through readoption of 23 rules, amendment of two rules, adoption of three rules, and the repeal of one rule for shellfish plants and inspections. The changes help ensure that North Carolina remains in full compliance with national requirements, provide efficiencies for the DMF in the process of implementing and enforcing the rules, and clarify and update the rules for stakeholders. There are two remaining rules with minor conforming amendments that are scheduled for a vote on final approval at the July 31 RRC meeting: 15A NCAC 03K .0110 and 18A .0302.

DATA COLLECTION AND HARASSMENT PREVENTION FOR THE CONSERVATION OF MARINE AND ESTUARINE RESOURCES (5 rules)

Due to the increasing occurrence and severity of harassment during, and decreasing participation in, DMF data collection initiatives, amendments are proposed to five MFC rules. Proposed amendments

set requirements to address harassment by any licensee or person engaged in regulated activity under Chapter 113, Subchapter IV, of the General Statutes (e.g., fishing) of DMF employees that occurs in the process of obtaining data for the conservation of marine and estuarine resources, and data for the protection of public health related to the public health programs that fall under the authority of the MFC. Additional amendments provide the types of data that may be collected. The amendments support the importance of participation by persons engaged in regulated fishing activity in division data collection and provide a safer working environment for division employees.

OYSTER SANCTUARY RULE CHANGES (1 rule)

Proposed amendments add the boundaries of the two newest oyster sanctuaries (Cedar Island and Gull Shoal) and correct boundaries for three other oyster sanctuaries (Pea Island, Raccoon Island, and Swan Island) where published coordinates were found to be inconsistent with permitted and marked reef boundaries. These changes to permanent rule would protect oysters from bottom disturbing gear so they can serve their intended management function as oyster broodstock sanctuaries, as well as safeguard boaters navigating the sanctuaries; the changes are already in place via the Fisheries Director's proclamation authority (SF-6-2022). Additionally, coordinates for three sanctuaries are proposed to be reorganized to standardize the cardinal directions, for consistency; there are no changes to the overall sanctuaries, nor the coordinate pairs themselves.

CONFORMING RULE CHANGES FOR SHELLFISH RELAY PROGRAM AND SHELLFISH LEASES AND FRANCHISES (12 rules)

In 2021, the DMF began the process of discontinuing its Shellfish Relay Program (relaying of shellfish from certain polluted areas) due primarily to insufficient resources to run the program and lack of widespread use. The Shellfish Relay Program ended May 1, 2024. The MFC received information about the discontinuation of the Shellfish Relay Program at its February 2022 business meeting. DMF identified 11 rules relating to the Shellfish Relay Program that set specific requirements for the relaying of shellfish from certain polluted areas. Changes are proposed to amend portions of rules or repeal rules consistent with rulemaking requirements in the Administrative Procedure Act.

Additional proposed changes for shellfish lease and franchise requirements are proposed to 15A NCAC 03O .0201 to conform to requirements of Session Law 2019-37 (Act to Provide Further Support to the Shellfish Aquaculture Industry in North Carolina). Specifically, changes incorporate and conform the shellfish production and planting requirements from Session Law 2019-37 for shellfish leases granted before July 1, 2019, and for shellfish leases granted on or after this date. Additional proposed changes require shellfish lease or franchise holders to meet the listed production, marking, and permit requirements for current shellfish leases before being eligible for additional shellfish lease acreage. Doing so would help ensure more efficient and meaningful use of the public trust bottom by preventing persons not in good standing from precluding potential applicants from applying for a shellfish lease in affected areas.

2024-2025 Rulemaking Cycle (8 rules)

At its February 2024 business meeting, the MFC selected its preferred management option and associated proposed language for rulemaking for the "Simplify Pot Marking Requirements" and "False Albacore Management" issue papers. At its May 2024 business meeting, the MFC selected its preferred management option and associated proposed language for rulemaking for the "Interstate Wildlife Violator Compact" issue paper. A fiscal analysis approved by the Office of State Budget

and Management (OSBM) for each of these subjects has been received and the documents are included in the briefing materials. The rulemaking process is ready to begin at the MFC's August 2024 business meeting. A table of the steps in the process is included in the briefing materials and a summary of these proposed rules by subject is provided below. Proposed rules would have an earliest effective date of May 1, 2025.

POT MARKING REQUIREMENTS RULE AMENDMENTS (1 rule)

Proposed amendments would simplify pot marking requirements for commercial fishermen by requiring only one of three ways to mark pot buoys, not two ways: 1) gear owner's current motorboat registration number; or 2) gear owner's U.S. vessel documentation name; or 3) gear owner's last name and initials. The current rule requires the gear owner's last name and initials be identified on each buoy as a baseline. Then, if a vessel is used, the identification must also include either the gear owner's current motorboat registration number or the gear owner's U.S. vessel documentation name. There have been no problems with pot identification and pot identification would be sufficient via a single identifier. The proposed amendments would simplify the requirements and grant some relief to commercial fishermen that use pots in their commercial fishing operation.

FALSE ALBACORE MANAGEMENT RULE ADOPTION (1 rule)

The proposed adoption of this rule would provide a mechanism to implement management measures to cap harvest when the false albacore fishery landings exceed a threshold of 200% of average landings from both sectors combined from 2018 to 2022. Harvest restrictions would be implemented if the threshold is exceeded as a means to prevent further expansion of the false albacore fisheries beyond the threshold. Currently, there are no rules in place for management of false albacore in North Carolina.

There is no baseline stock assessment for false albacore and thus, no biological basis for reducing harvest. The only mechanism to monitor false albacore is through annual landings in North Carolina, which is not a measure for sustainability of the stock. While there is no need to manage to meet sustainability requirements, the MFC is seeking proactive management of false albacore to limit expansion of new and existing fisheries. Management options would include commercial trip limits, recreational bag limits, and recreational vessel limits.

INTERSTATE WILDLIFE VIOLATOR COMPACT RULE ADOPTIONS (6 rules)

The Interstate Wildlife Violator Compact is a voluntary interstate agreement that provides participating states with a mechanism to participate in a reciprocal program to: (1) promote compliance with the statutes, laws, administrative rules and regulations relating to management of wildlife resources in their respective states; and (2) provide for the fair and impartial treatment of wildlife violators operating within the participating states in recognition of the individual's right of due process and the sovereign status of a party state. North Carolina's participation in the Interstate Wildlife Violator Compact has been enacted into state law, so it must be implemented and enforced. Article 22B includes G.S. § 113-300.7, which requires the Wildlife Resources Commission (WRC) and the MFC to adopt rules necessary to carry out the purpose of Article 22B. The WRC has adopted its rules. For the purposes of the Interstate Wildlife Violator Compact, "wildlife" includes marine and estuarine resources managed by the MFC and the DMF.

N.C. Marine Fisheries Commission 2023-2024 Annual Rulemaking Cycle

August 2024

Time of Year	Action
February-April 2023	Fiscal analysis of rules prepared by DMF staff and approved by Office of State Budget and Management
May 26, 2023	MFC approved Notice of Text for Rulemaking
Aug. 1, 2023	Publication of proposed rules in the <i>North Carolina Register</i>
Aug. 1-Oct. 2, 2023	Public comment period held
Aug. 16, 2023	Public hearing held via WebEx with listening station
Nov. 17, 2023	MFC receives public comments and approves 83 of 103 permanent rules
Jan. 31, 2024	83 rules approved by Office of Administrative Hearings/ Rules Review Commission
April 1, 2024	Effective date of 80 rules not subject to legislative review
April 1, 2024	Rulebook supplement available online
May 24, 2024	MFC receives reminder of public comments and approves remaining 20 of 103 permanent rules
June 17, 2024	Effective date of 3 rules subject to legislative review per S.L. 2019-198 and G.S. 14-4.1
June 17, 2024	Rulebook supplement available online
July 31, 2024	20 rules approved by Office of Administrative Hearings/ Rules Review Commission
August 1, 2024	Effective date of 2 rules not subject to legislative review
August 1, 2024	Rulebook supplement available online
2025 legislative session	Possible effective date of 18 rules subject to legislative review per S.L. 2019-37, and S.L. 2019-198 and G.S. 14-4.1

N.C. Marine Fisheries Commission 2024-2025 Annual Rulemaking Cycle

August 2024

Time of Year	Action
February-July 2024	Fiscal analysis of rules prepared by DMF staff and approved by Office of State Budget and Management
Aug. 23, 2024	MFC votes on approval of Notice of Text for Rulemaking
Oct. 1, 2024	Publication of proposed rules in the <i>North Carolina Register</i>
Oct. 1-Dec. 2, 2024	Public comment period held
Fall 2024	Public hearing held (details TBD)
February 2025	MFC votes on final approval of permanent rules
April 2025	Rules reviewed by Office of Administrative Hearings/ Rules Review Commission
May 1, 2025	Earliest effective date of rules not subject to legislative review
May 1, 2025	Rulebook supplement available online
2026 legislative session	Possible effective date of rules subject to legislative review per S.L. 2019-198 and G.S. 14-4.1

Fiscal Impact Analysis of Proposed Amendment of Rule 15A NCAC 03J .0301 related to Fishing Pot Marking Requirements

Rule Amendments: 15A NCAC 03J .0301 POTS

Name of Commission: N.C. Marine Fisheries Commission

Agency Contact: Jason Walsh, Fisheries Economics Program Manager
N.C. Division of Marine Fisheries
3441 Arendell Street
Morehead City, NC 28557
Jason.walsh@deq.nc.gov
252-269-9299

Impact Summary: State government: No
Local government: No
Federal government: No
Substantial impact: No

AUTHORITY

N.C. General Statutes

- G.S. 113-134. Rules.
- G.S. 113-182. Regulation of fishing and fisheries.
- G.S. 113-221.1. Proclamations; emergency review.
- G.S. 143B-289.52. Marine Fisheries Commission – powers and duties.

Necessity: The proposed rule changes seek to lessen the requirements for fishing pot markings from two forms of identification to one form of identification. North Carolina Division of Marine Fisheries (DMF) regularly reviews rules for their effectiveness and their impact on stakeholders. This rule was identified as a rule that could be changed to reduce the burden upon stakeholders. In accordance with N.C.G.S. § 150B-19.1 (a)(2), the North Carolina Marine Fisheries Commission (MFC) is proposing the amendments described below.

I. Summary

The primary purpose of the proposed rule change is to alter requirements for pot markings from two forms of identification to one form of identification. The DMF assessed this rule and coordinated with North Carolina Marine Patrol to conclude that one form of identification is sufficient for marking pots. The proposed rule change is in response to feedback from stakeholders and internal review of processes. Compared to the regulatory baseline, which is the existing rule, the rule change will likely benefit select commercial fishermen in the form of avoided costs from not having to purchase additional identification tags and related equipment. These benefits are considered ongoing since the changes align with ongoing management practice.

II. Introduction and Purpose of Rule Change

At its August 2021 business meeting, the MFC gave approval to begin the rulemaking process for a large package of proposed amendments and readoption of rules under a state-mandated periodic review schedule. One subject in this package covered eight rules related to commercial blue crab harvest and gear regulations. The amendments and readoptions were proposed primarily to conform the rules with existing blue crab management measures previously approved and implemented through Amendment 3 of the Blue Crab Fishery Management Plan. Additional amendments updated marking requirements for pot buoys, consistent with other MFC rules containing gear marking requirements.

Requirements for the use of pots are set forth in 15A NCAC 03J .0301, POTS. Prior to rule readoption, the rule required one of three possible forms of identification on each pot buoy: 1) gear owner's current motorboat registration number; 2) gear owner's U.S. vessel documentation name; or 3) gear owner's last name and initials. This rule is one of nine MFC rules that contain similar marking requirements for different types of gears, including gill nets (15A NCAC 03J .0103), trawl nets (15A NCAC 03J .0104), channel nets (15A NCAC 03J .0106), seines (15A NCAC 03J .0110), fyke nets and hoop nets (15A NCAC 03J .0111), recreational use of pots (15A NCAC 03J .0302), trotlines (15A NCAC 03J .0305), and pound nets (15A NCAC 03J .0501). As part of the readoption process, the MFC proposed amendments to make these requirements consistent across rules. As a result, amendments were proposed to the "pots" rule to require the gear owner's last name and initials be identified on each buoy as a baseline. Then, if a vessel is used, the identification must also include either the gear owner's current motorboat registration number or the gear owner's U.S. vessel documentation name. When the proposed changes were developed, North Carolina Marine Patrol staff estimated many (at least half) of commercial fishermen using pots already met the requirements that were proposed. The proposed changes were promulgated through the rulemaking process set forth in the Administrative Procedure Act and amendments to the "pots" rule became effective March 15, 2023.

At the May 2023 MFC business meeting, a commissioner relayed concerns from commercial fishermen about the new pot marking requirements. The DMF does not collect data on the number of pots that fishermen that fish with pots use in their operations, but it is estimated that these individuals use hundreds of pots in their commercial fishing operation and use a vessel to deploy and retrieve them. At any point, fishermen may opt to sell their vessel and buy another vessel, which under the new requirements means the buoy for every pot must be changed to reflect the new vessel registration number or vessel name, even if the buoy already has the gear owner's last name and initials. Under the original rule, only one of the three means of identification was required to be marked on the pot buoy (the gear owner's name, vessel number, or vessel name). The changes that became effective March 15, 2023, were not made due to problems with pot identification, rather the changes were made for consistency across gears for marking requirements.

N.C.G.S. § 150B-19.1, Requirements for agencies in the rule-making process, Subparagraph (a)(2), states an "agency shall seek to reduce the burden upon those persons or entities who must comply with the rule." Since the recent amendments to 15A NCAC 03J .0301 for pot marking

requirements were made for consistency across gears and MFC rules, not due to problems for North Carolina Marine Patrol or others with the identification of the owner of pots, and since there have been no new problems with pot identification, it is appropriate to grant some relief for marking requirements to commercial fishermen that use pots in their commercial fishing operation by simplifying the requirements.

This relief can be achieved by restoring the original content of 15A NCAC 03J .0301(c) to reflect a choice of any one of three ways for a gear owner to mark their pot: 1) gear owner's current motorboat registration number; or 2) gear owner's U.S. vessel documentation name; or 3) gear owner's last name and initials. The current rule requires the gear owner's last name and initials be identified on each buoy as a baseline. Then, if a vessel is used, the identification must also include either the gear owner's current motorboat registration number or the gear owner's U.S. vessel documentation name. The proposed amendments would change the requirements from "gear owner's name AND gear owner's vessel number OR gear owner's vessel name" to "gear owner's name OR gear owner's vessel number OR gear owner's vessel name", simplifying the requirements.

The proposed amendments would mean that marking requirements for pots would be different than marking requirements for other gears, and the rulemaking process would have to be undertaken, which takes time. But, per North Carolina Marine Patrol, pot identification would be sufficient with either the gear owner's name, or the gear owner's vessel number, or the gear owner's vessel name, and there would be no impact to enforcement activities. Commercial fishermen that use pots in their commercial fishing operation would be granted some relief with the adoption of the simplified requirements.

The proposed rule changes would provide reasonable relief to pot fishery participants while ensuring sufficient pot identification is maintained.

III. Fiscal Analysis

Compared to the regulatory baseline, which is the current version of Rule 15A NCAC 03J .0301, the proposed changes are likely to result in benefits (avoided costs), particularly to commercial pot fishermen. However, because the proposed changes conform with ongoing management practice, any benefits should be considered ongoing. Using the estimated costs from the fiscal analysis done for the previous rulemaking¹, the ongoing benefits to existing commercial fisherman are estimated to be \$375,214,² collectively. These benefits, which are in the form of avoided costs, are related to the saving of labor time as well as costs for identification tags, stamp set-up fees, and commercial tools. In addition to these ongoing benefits to existing stakeholders, there could be additional benefits (in the form of avoided costs) to new stakeholders who enter the industry and stakeholders that transfer pot ownership in the future.

¹ Fiscal analysis for 2021 amendments to Rule 15A NCAC 03J .0301: https://www.osbm.nc.gov/documents/files/DEQ_2021-06-28/open

² \$318,205 in 2021\$ inflated to \$375,214 in 2024\$ using [CPI inflation calculator](#).

The changes are not expected to result in any impacts to enforcement by DMF Marine Patrol staff.

Appendix: Proposed Rule Changes

15A NCAC 03J .0301 POTS

(a) It shall be unlawful to use pots except during time periods and in areas specified herein:

- (1) in Internal Waters from December 1 through May 31, except that:
 - (A) in the Northern Region designated in 15A NCAC 03R .0118(1) all pots shall be removed from Internal Waters from January 1 through January 31. Fish pots upstream of the U.S. 17 Bridge across Chowan River and upstream of a line across the mouth of Roanoke, Cashie, Middle, and Eastmost Rivers to the Highway 258 Bridge are exempt from this removal requirement.
 - (B) in the Southern Region designated in 15A NCAC 03R .0118(2) all pots shall be removed from Internal Waters from March 1 through March 15.
- (2) in Internal Waters from June 1 through November 30 in the Northern Region designated in 15A NCAC 03R .0118(1):
 - (A) in areas described in 15A NCAC 03R .0107(a).
 - (B) to allow for the variable spatial distribution of crustacea and finfish, the Fisheries Director may, by proclamation, specify time periods for and designate the areas described in 15A NCAC 03R .0107(b) or any part thereof, for the use of pots.
- (3) in Internal Waters from May 1 through November 30 in the Southern Region designated in 15A NCAC 03R .0118(2), the Fisheries Director may, by proclamation, specify time periods and areas for the use of pots.
- (4) in the Atlantic Ocean from May 1 through November 30 the Fisheries Director may, by proclamation, specify time periods and areas for the use of pots.

(b) It shall be unlawful to use pots:

- (1) in any navigation channel marked by State or Federal agencies; or
- (2) in any turning basin maintained and marked by the North Carolina Ferry Division.

(c) It shall be unlawful to use pots in a commercial fishing operation unless each pot is marked by attaching a floating buoy of any color except any shade of yellow or any shade of hot pink, or any combination of colors that include any shade of yellow or any shade of hot pink. Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. ~~The gear owner's last name and initials~~ One of the following shall be engraved on the attached buoy or identified by attaching engraved metal or plastic tags to the ~~buoy~~. ~~If a vessel is used, the identification shall also include one of the following:~~ buoy:

- (1) gear owner's current motor boat registration number; ~~or~~
- (2) gear owner's U.S. vessel documentation ~~name~~ name; or
- (3) gear owner's last name and initials.

(d) Pots attached to shore or a pier shall be exempt from Subparagraphs (a)(2) and (a)(3) of this Rule.

(e) It shall be unlawful to use shrimp pots with mesh lengths smaller than one and one-fourth inches stretch or five-eighths-inch bar.

- (f) It shall be unlawful to use pots to take eels with mesh lengths smaller than one-half inch by one-half inch.
- (g) Except for unbaited pots or pots baited with a male crab, it shall be unlawful to use crab pots in Coastal Fishing Waters unless each pot contains no less than three unobstructed escape rings that are at least two and five-sixteenth inches inside diameter and:
 - (1) for pots with a divider:
 - (A) two escape rings shall be located on opposite panels of the upper chamber of the pot; and
 - (B) at least one escape ring shall be located within one full mesh of the corner and one full mesh of the bottom of the divider in the upper chamber of the pot.
 - (2) for pots without a divider:
 - (A) two escape rings shall be located on opposite panels of the pot; and
 - (B) at least one escape ring shall be located within one full mesh of the corner and one full mesh of the bottom of the pot.

For the purpose of this Rule, a "divider" shall mean a panel that separates the crab pot into upper and lower sections.

- (h) The Fisheries Director may, by proclamation, impose on a commercial fishing operation and for recreational purposes any of the following restrictions for pots:
 - (1) specify time;
 - (2) specify area;
 - (3) specify means and methods;
 - (4) specify record keeping and reporting requirements;
 - (5) specify season, including a closed season for removal of all pots from Internal Waters;
 - (6) specify species; and
 - (7) specify quantity.
- (i) It shall be unlawful to use more than 150 crab pots per vessel in Newport River.
- (j) It shall be unlawful to remove crab pots from the water or remove crabs from crab pots between one hour after sunset and one hour before sunrise.
- (k) It shall be unlawful to use pots to take crabs unless the line connecting the pot to the buoy is non-floating.
- (l) It shall be unlawful to use pots with leads or leaders to take shrimp. For the purpose of this Rule, "leads" or "leaders" shall mean any fixed or stationary net or device used to direct fish into any gear used to capture fish. Any device with leads or leaders used to capture fish shall not be a pot.

History Note: Authority G.S. 113-134; 113-173; 113-182; 113-221.1; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. August 1, 1998; May 1, 1997; March 1, 1996; March 1, 1994; October 1, 1992;
September 1, 1991;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. September 1, 2000;

Amended Eff. May 1, 2015; April 1, 2014; September 1, 2005; August 1, 2004; August 1, 2002;
Readopted Eff. March 15, ~~2023~~, 2023;
Amended Eff. (Pending legislative review pursuant to S.L. 2019-198).

Fiscal Impact Analysis of Proposed False Albacore Management Rule

Rule Proposal: 15A NCAC 03M .0523 False Albacore

Name of Commission: N.C. Marine Fisheries Commission

Agency Contact: Jason Walsh, Fisheries Economics Program Manager
N.C. Division of Marine Fisheries
3441 Arendell Street
Morehead City, NC 28557
Jason.walsh@deq.nc.gov
252-269-9299

Impact Summary: State government: No
Local government: No
Federal government: No
Substantial impact: No

AUTHORITY

N.C. General Statutes

G.S. 113-134. Rules.
G.S. 113-182. Regulation of fishing and fisheries.
G.S. 113-221.1. Proclamations; emergency review.
G.S. 143B-289.52. Marine Fisheries Commission – powers and duties.

Necessity: False albacore (*Euthynnus alletteratus*), also known as “little tunny”, is not managed at the state nor federal level in North Carolina nor in any Atlantic waters on the east coast of the United States. North Carolina does not currently have any means to manage this fishery and the North Carolina Marine Fisheries Commission (MFC) is seeking the ability to do so to be prepared if the fishery continues to expand. Since this fishery is not managed by an interjurisdictional fishery management plan (FMP) nor is it a commission- or council-managed species, this proposed rule would be the first management measure implemented for the fishery in Atlantic waters. The need for management authority arose when there was concern from the recreational fishing industry and the MFC that commercial and recreational landings have increased annually over the last 10 years and that the pressure could continue to increase over time with no tool available to implement management.

I. Summary

False albacore has become a more popular fishery in recent years, especially for the recreational sector. If adopted, the proposed rule would delegate proclamation authority to the Fisheries Director to issue a proclamation to manage the false albacore fishery if landings exceed a predetermined threshold and with prior consent by the MFC. The agency anticipates that if the rule is adopted as proposed, it would not result in any direct or near-term economic impacts as compared to the regulatory baseline to state government, local government, or the regulated

community. Potential long-term, indirect economic impacts (costs and benefits) to the regulated community are possible as a result of the proposed rule. However, we cannot predict the magnitude of costs or benefits (indirectly) attributable to the rule.

The majority of impacts would be realized if/when landings of false albacore exceed the proposed threshold and a proclamation is issued. If implemented in the future, the proposed management measures will help prevent overexpansion of the false albacore fishery. The management measures could result in some recreational fishers switching to other species. The measures are not expected to reduce participation in the sport of recreational fishing as a whole, however, as the majority of false albacore fishing is catch-and-release, which will not be restricted by the proposed management measures. The effect on commercial fishing is likely to be minimal as false albacore have low commercial value in the United States, and they are most often caught incidentally to other species.

The main effect of the proposed rule would be to expedite future management of the species by laying the groundwork for the Director to issue a proclamation. In the absence of proclamation authority, rulemaking would be required, thereby delaying implementation of management measures by many months at a critical point for the false albacore population. Adopting the rule now also gives a degree of certainty to the regulated community about possible future management measures.

II. Introduction and Purpose of Rule Proposal

False Albacore Life History

False albacore (*Euthynnus alletteratus*), also known as “little tunny”, is one of the most common members of the mackerel/tuna family Scombridae. It is a tuna-shaped fish that is steel blue on top and silver below with wavy stripes along the posterior portion of the dorsal side of the body and scattered dark spots below the pectoral fin. Anglers often confuse false albacore with Atlantic bonito (*Sarda sarda*) due to similarity in size and coloration. False albacore is typically found in tropical to temperate waters of the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea; it is also found in the Mediterranean and Black seas. False albacore is a schooling species that migrate north in the spring and south in the fall and winter (Collette and Nuan 1983).

Interjurisdictional False Albacore Management

Until 2011, false albacore was part of the South Atlantic Fishery Management Council's (SAFMC) Coastal Migratory Pelagics FMP. Although there were no management measures under the plan, data collection was an important component. Amendment 18 to the plan removed false albacore from the management unit since data would still be collected through current sampling regimes (SAFMC 2011). Based on data available at the time, false albacore did not appear to meet the federal national standard guidance for stocks in need of conservation and management. In North Carolina, false albacore was managed through MFC Rule 15A NCAC 03M .0512 (although no limits were put in place); however, authority to manage under this rule ended when the species was removed from SAFMC's Coastal Migratory Pelagics FMP and subsequently the N.C. FMP for Interjurisdictional Fisheries, which adopts management measures

within approved SAFMC, Mid-Atlantic Fishery Management Council (MAFMC), and Atlantic States Marine Fisheries Commission (ASMFC) FMPs by reference as the minimum standard. Currently, there are no rules in place for false albacore management in North Carolina. Additionally, the MAFMC did not include false albacore in their Unmanaged Forage [fish] Amendment in 2016 because of their large size and higher trophic level (MAFMC 2017). At the August 2016 MAFMC meeting, Council staff recommended the MAFMC consider developing management actions for the species in the future (including a potential small tunas FMP), due to high public concern for the species, particularly from the recreational sector. Management of false albacore through a small tunas FMP has not been pursued yet by a federal management body.

In December 2022, a paper entitled "Little Tunny White Paper" was presented at the SAFMC business meeting that examined if false albacore meets the Magnuson-Stevens Fishery Management and Conservation Act criteria for a stock in need of conservation and management (50 C.F.R. §600.305(c)(1)). More information on the findings contained in the white paper can be found at the SAFMC webpage for the December 2022 business meeting at which the white paper was presented (https://safmc.net/documents/mc_a3_littletunny/). Following the presentation of the white paper, the Mackerel Cobia Committee directed Council staff to have the Mackerel Cobia Advisory Panel develop a fishery performance report for false albacore every three years. The report will include international landings, as well as landings along the Atlantic coast in federal versus state waters, catch per unit effort, and length distribution.

The ASMFC Interstate Fisheries Management Policy Board (Policy Board) tasked ASMFC staff in February 2022 to present an options paper on possible paths forward for management of Atlantic bonito and false albacore after concerns were raised regarding increased recreational harvest of juvenile fish in some state waters. Staff presented possible options for developing different paths to management for both Atlantic bonito and false albacore at the May 2023 ASMFC Policy Board meeting. The information also included the states' ability to regulate a species without an ASMFC FMP and timing to implement measures without an ASMFC FMP. It was noted if additional species were added to the ASMFC portfolio, it would increase the workload for ASMFC and state staff, some of which are already at full capacity. Although some states are interested in management measures for these species, ASMFC's Policy Board decided not to pursue management at the interstate level.

Proposed N.C. False Albacore Management

At its February 2023 business meeting, the MFC, was presented a white paper it had requested in 2022 about false albacore to frame potential management options for future consideration. The paper included life history, state by state landings, and data limitations for false albacore in North Carolina and the western Atlantic. The MFC passed a motion requesting staff provide rulemaking language with management options for false albacore starting with status quo and allowing for growth at various percentage points. The Division of Marine Fisheries (DMF) defined "Status quo" for false albacore as the five-year average landings for both recreational and commercial sectors combined from 2018 to 2022 and then applied percentage points of growth to this five-year average (2018-2022) at 125%, 150%, 175%, and 200% of status quo. These percentage points of growth from the five-year average landings illustrate a threshold to

implement management measures to limit expansion of new and existing false albacore fisheries in North Carolina. The details on the growth scenarios were provided to the MFC at its May 2023 business meeting. By consensus, the MFC agreed to use a growth scenario of 200% of status quo, defined as the five-year average of North Carolina recreational landings and the five-year average of North Carolina commercial landings from 2018-2022, as the basis for developing a proposed rule. To simplify rulemaking, the DMF later established the threshold would be based on the recreational and commercial landings combined. The DMF developed the requested proposed rule.

Under the proposed rule, the MFC would receive a formal update at its annual August business meeting on false albacore landings through the previous calendar year to monitor whether the 200% threshold of the five-year average has been exceeded. Again, the combined recreational and commercial landings would determine if the threshold had been exceeded. If landings from the previous calendar year exceed the threshold, a memo would be provided to the MFC containing the DMF rationale for any false albacore management, including information on whether it is an anomalous annual harvest estimate. Other influencing factors could include expanding markets for bait or food sources, an unusual year for false albacore movement into N.C. waters, or expansion in the number of participants in the fisheries.

Pursuant to the proposed rule, MFC concurrence would be required for the DMF Director to issue a proclamation to implement management measures to reduce harvest of false albacore. The draft proclamation would also be provided to the MFC for its review. The requirement in the proposed rule for MFC concurrence prior to issuance of the proclamation provides a choice to the MFC to implement harvest restrictions or not implement harvest restrictions. This management scenario allows the MFC to consider other factors that may be influencing an increase in landings to the extent that the threshold has been exceeded. A fishery that shows progressive expansion over several years (versus one anomalous spike in landings as occurred with false albacore in 2020) usually has other factors in play to cause the growth of a fishery where a harvest cap would be more useful and appropriate for preventing further expansion of the fishery. If a significant expansion only occurs in one sector, the rule does not allow for implementing regulations for only one sector. Regulations would be implemented for both the commercial and recreational fisheries once the threshold (based on combined landings) is exceeded.

A delayed January 1 start date from the August MFC business meeting would allow over four months to inform the public of the new restrictions. The public would be notified through usual communications by DMF via a news release, broadcast email through the license holder distribution list, and social media posts. MFC meetings are public meetings and an opportunity at which the public can provide input to the MFC, and the MFC also has the option to refer an issue to its standing and regional advisory committees for input. The delayed effective date for implementing a proclamation to be effective on January 1 the year following the year the determination is made would have the added benefit of shortening the time between the effective date of the proclamation (January 1) and the time data from the next calendar year would be available. The previous calendar year's data can be available as early as April 30, with variability from year to year, and would enable DMF staff to determine if the next year's annual landings of

false albacore fall below the designated threshold. Expiration of the proclamation would be contingent on when the combined annual landings fall below the threshold and would require MFC concurrence per the proposed rule.

False albacore has become a more popular and targeted fishery in recent years, especially for the recreational sector. Participants associated with the fishery have expressed concern over perceived increases in harvest and targeted trips of the species to both the state and federal level managers. As fish stocks change and fishery management reacts to those changes, fishing effort has historically shifted across species. Fisheries that are unregulated are more susceptible to increases in effort as fishing effort moves away from regulated fisheries. Coastwide, there are no known commercial or recreational regulations currently in place to directly manage false albacore fisheries at the state or federal level.

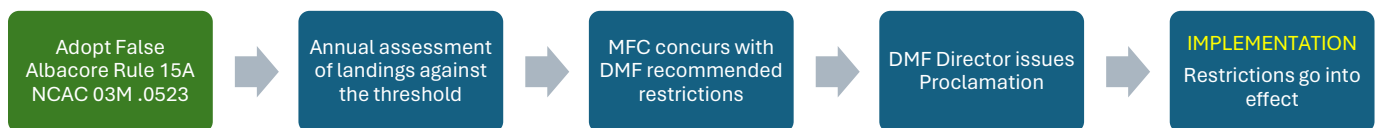
III. Fiscal Analysis

The purpose of this document is to examine the potential economic impacts (costs and benefits) of the proposed false albacore management rule.

The rule itself will not directly produce costs or benefits for the public, although it would affect the timing of future costs and benefits being realized. Any impacts would occur following implementation of the rule after issuance of a proclamation by the Director of DMF. The need to protect a stock from fishing pressure or to allow expansion of fishing effort is necessary to meet stock management goals while balancing use of the marine and estuarine resources for all users.

Having the rule in place would expedite implementation of these management measures should the landings threshold be exceeded in the future. As shown in Figure 1, there are additional steps that need to occur after adoption of the rule and before implementation can occur.

Figure 1. Steps from Adoption of Rule to Implementation



The costs to the public (i.e., regulated community) would be in the form of potential decreases in bag and trip limits. Recreational fishers, primarily, may have to reduce their harvest of false albacore as a result of the proposed management measures. This cost would be incurred only for those recreational fishers who catch (and keep) more than the proposed limit of false albacore. Recreational fishers who catch and release false albacore will not be subject to the same limits.

The proposed rule will not produce costs to the State. In the event that landings exceed the threshold in the future and a proclamation is issued, Marine Patrol would incorporate enforcement of the False Albacore species into its regular enforcement duties without requiring additional resources or funds.

There are potential unquantifiable benefits to stakeholders in the form of regulatory certainty and future regulatory expediency. Providing the public with more certainty around future management measures will allow for small benefits in the form of fishers being able to make more informed decisions about their participation in the fishery. Having the management measures codified in advance of proclamation may also result in incremental improvements to compliance should a proclamation be issued in the future.

While the proposed rule adoption could lead to changes to future harvest restrictions, DMF cannot predict if or when these restrictions will become necessary. Although landings have not exceeded the proposed threshold in the time horizon that the DMF has been monitoring trips and landings reported in Table 1, we cannot say with any certainty whether current trends will increase or decrease in the coming years. This uncertainty makes it impossible to predict the likelihood of realizing costs and benefits related to implementation of management measures. Having the rule in place will, however, give a measure of certainty to the regulated community as to what future management measures could go into effect. Though the benefits from this rule are not explicitly quantifiable, they are real and will help ensure a more sustainable population of false albacore for the benefit of the species and the people of North Carolina.

Table 1. Recreational harvest (number of fish landed and weight in pounds) and releases (number of fish) and commercial harvest (weight in pounds) of false albacore from North Carolina for the period 1997–2022. (Source: Marine Recreational Information Program and North Carolina Trip Ticket Program)

Year	Recreational		Commercial	Total
	Numbers		Weight (lb)	Weight (lb)
	Landed	# Released	Landed	
1997	31,787	48,106	222,310	593,124
1998	25,206	75,617	200,843	354,640
1999	15,895	77,885	90,008	233,367
2000	13,931	41,591	85,778	192,555
2001	8,702	78,516	53,955	152,307
2002	13,717	89,706	61,385	139,183
2003	12,294	24,662	79,071	165,639
2004	7,955	62,965	95,088	187,407
2005	6,937	68,636	69,868	158,609
2006	3,318	39,902	29,943	136,560
2007	3,098	115,324	29,494	164,160
2008	12,377	33,205	76,228	179,971
2009	17,018	83,454	139,432	285,520
2010	7,374	66,458	49,290	196,627
2011	7,807	30,347	55,290	186,839
2012	18,393	59,160	140,026	297,875
2013	28,669	108,149	218,471	408,217
2014	27,469	273,165	189,270	415,067
2015	22,854	87,239	207,889	372,742
2016	41,077	145,699	337,841	579,049
2017	39,214	119,647	334,363	550,920
2018	47,891	110,716	315,758	519,935
2019	27,359	80,204	185,093	417,972
2020	92,899	171,562	594,793	825,478
2021	17,095	52,787	118,784	224,090
2022	38,772	127,255	234,923	381,988
Average	22,658	87,383	162,123	319,994

Appendix I.: Proposed Rule Changes

15A NCAC 03M .0523 is proposed for adoption as follows:

15A NCAC 03M .0523 FALSE ALBACORE

(a) If the level of landings of false albacore in a calendar year exceeds 200 percent of the five-year average of North Carolina recreational and commercial landings combined from 2018-2022, the Fisheries Director shall issue a proclamation as set forth in Paragraph (b) of this Rule.

(b) In accordance with Paragraph (a) of this Rule and after prior consent of the Marine Fisheries Commission, the Fisheries Director shall, by proclamation, impose the following requirements on the taking of false albacore:

- (1) for recreational purposes, specify a bag limit not to exceed 10 fish per person per day, not to exceed 30 fish per vessel per day; and
- (2) for a commercial fishing operation, specify a trip limit not to exceed 3,500 pounds in any one day or trip, whichever is more restrictive.

(c) A proclamation issued in accordance with Paragraphs (a) and (b) of this Rule shall become effective January 1 of the year following the year when the determination is made that a proclamation shall be issued. The proclamation shall expire when the level of landings falls below the landings level in Paragraph (a) of this Rule in a subsequent calendar year and after prior consent of the Marine Fisheries Commission.

History Note: Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;
Eff. May 1, 2025.

Appendix II.: Literature Cited

Collette B. B., and C. E. Nauen. 1983. FAO species catalogue: Vol. 2. Scombrids of the world. An annotated and illustrated catalogue of tunas, mackerels, bonitos and related species known to date. FAO Fisheries Synopsis 125(2):34-35.

MAFMC (Mid-Atlantic Fisheries Management Council). 2017. Unmanaged Forage Omnibus Amendment. 223 pp. Mid-Atlantic Fishery Management Council 800 North State Street, Suite 201, Dover, D.E. 19901.

SAFMC (South Atlantic Fisheries Management Council). 2011. Amendment 18 to the Fishery Management Plan for Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region Including Environmental Assessment, Regulatory Impact Review, and Regulatory Flexibility Act Analysis. 399 pp. South Atlantic Fishery Management Council, 4055 Faber Place Drive, Ste 201, Charleston, S.C. 29405.

Fiscal Impact Analysis of Proposed Interstate Wildlife Violator Compact Rules

Rule Proposal: Adoption of 15A NCAC 03O .0601-.0606

Name of Commission: N.C. Marine Fisheries Commission

Agency Contact: Jason Walsh, Fisheries Economics Program Manager
N.C. Division of Marine Fisheries
3441 Arendell Street
Morehead City, NC 28557
Jason.walsh@deq.nc.gov
252-269-9299

Impact Summary: State government: Yes
Local government: Yes
Federal government: No
Substantial impact: No

AUTHORITY

N.C. General Statutes

G.S. § 113-134.	Rules.
G.S. § 113-174.	Definitions.
G.S. § 113-182.	Regulation of fishing and fisheries.
G.S. § 113-300.5.	Short title.
G.S. § 113-300.6.	Governor to execute compact; form of compact.
G.S. § 113-300.7.	Appointment of Compact Administrator; implementation; rules; amendments.
G.S. § 113-300.8.	Violations.
G.S. § 143B-289.52.	Marine Fisheries Commission – powers and duties.
S.L. 2008-120.	AN ACT TO ENACT THE INTERSTATE WILDLIFE VIOLATOR COMPACT IN NORTH CAROLINA.
S.L. 2009-15.	AN ACT TO CLARIFY THAT THE INTERSTATE WILDLIFE VIOLATOR COMPACT INCLUDES VIOLATIONS OF MARINE RESOURCES LAW, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

Necessity: The N.C. General Assembly enacted the Interstate Wildlife Violator Compact (WVC) (Article 22B) in statute via Senate Bill 175 in 2008. The bill was signed into law on July 14, 2008, and became effective on October 1, 2008.

In 2009, House Bill 105 added the N.C. Marine Fisheries Commission (MFC) and the N.C. Division of Marine Fisheries (DMF) to the WVC and all species of animals they protect or regulate to the definition of "wildlife". This act became effective on October 1, 2009. Article 22B includes G.S. § 113-300.7, which requires the N.C. Wildlife Resources Commission (WRC) and the MFC to adopt rules necessary to carry out the purpose of Article 22B.

I. Summary

The Interstate Wildlife Violator Compact, also referred to as the "WVC" or "Compact", is a voluntary interstate agreement that provides participating states with a mechanism to participate in a reciprocal program to:

- 1) promote compliance with the statutes, laws, administrative rules and regulations relating to management of wildlife resources in their respective states; and
- 2) provide for the fair and impartial treatment of wildlife violators operating within the participating states in recognition of the individual's right of due process and the sovereign status of a party state.

North Carolina's participation in the Compact has been enacted into state law, so it must be implemented and enforced. Article 22B of Chapter 113 includes General Statute 113-300.7, which requires the WRC and the MFC to adopt rules necessary to carry out the purpose of the Compact.

Adoption of MFC rule in compliance with the WVC will have two primary benefits: the first is the reciprocal recognition of license suspensions and the second is enhanced flexibility when dealing with non-resident violators.

II. Introduction and Purpose of Rule Proposal

The WVC is a voluntary interstate agreement that provides participating states with a mechanism to participate in a reciprocal program to: (1) promote compliance with the statutes, laws, administrative rules and regulations relating to management of wildlife resources in their respective states; and (2) provide for the fair and impartial treatment of wildlife violators operating within the participating states in recognition of the individual's right of due process and the sovereign status of a party state. North Carolina's participation in the WVC has been enacted into state law, so it must be implemented and enforced.

It is important to note that several terms in the WVC have definitions that differ from those found elsewhere in North Carolina. For the WVC, "wildlife" includes marine and estuarine resources, whereas G.S. 113-129(16) excludes marine and estuarine species. Likewise, suspension references include not just suspensions, but also any revocation, denial, withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license or permit. Another term defined in the WVC is "party state", which means any state that enacts legislation to become a member of the WVC. The use of "member state" throughout this paper and its proposed rules is intended to have the same meaning.

The WVC has a set of bylaws and an operations manual (see <http://www.deq.nc.gov/wildlifeviolatorcompact>). The WVC Operations Manual states the concept of a wildlife violator compact was first advanced in the early 1980s by western states discussing the format of existing documents related to motor vehicle operator licensing and enforcement. During the 1989 legislative session, compact legislation was passed into law in Colorado, Nevada, and Oregon. These three states formed the nucleus for the development of the operational

procedures of the WVC. As of 2024, the WVC has 49 member states, with Hawaii in the process of joining the WVC; Massachusetts is working to implement the WVC. The Manual provides the original 1989 legislative text, which is similar to the N.C. legislation. The Manual also addresses procedural and administrative matters and describes the compact process.

The WVC Bylaws provide that each state shall have a representative appointed by the Chief of Law Enforcement or the licensing authority in the participating state. For North Carolina this role would be appointed by the chair of the WRC with consultation from the chair of the MFC and the Fisheries Director. Each state or province shall have one vote in matters affecting the WVC and that vote shall be in person. There shall be an annual meeting conducted in conjunction with the fall meeting of the Association of Fish and Wildlife Agencies. The WVC shall vote annually to elect a Chair, Vice-chair, and Secretary. Officers shall serve no more than three consecutive terms. The board shall formulate necessary procedures for the administration of the WVC and develop uniform forms and data formats for transmittal of compact information. These procedures are consistent with the N.C. legislation, specifically G.S. 113-300.6 Article VII.

After the N.C. General Assembly agreed to enter the WVC, there were a number of concerns about implementation by the DMF. The first was how a suspension from recreational activities would affect a commercial license holder; specifically, whether commercial licenses would be considered at all and if the DMF and MFC could opt out of the WVC (D. Lupton, NCDMF (retired), personal communication). Additional concerns were that charging language or violations are different from one state to another and may be difficult to apply in North Carolina. DMF staff reached back to lawmakers for clarity, but it is unclear if the DMF received a response (J. Kelley, NCDMF (retired), personal communication). Additionally, the WRC had to enact their rules before the MFC could enact theirs, consistent with the legislation (D. Lupton, NCDMF (retired), personal communication).

North Carolina's participation in the WVC gives N.C. agencies a mechanism to increase accountability on wildlife violators who have been suspended in other jurisdictions. The adoption of MFC rules would allow DMF to hold those wildlife violators accountable and provide more opportunity and flexibility for N.C. Marine Patrol officers to treat non-residents as they would an N.C. resident. By providing a mechanism to suspend licenses in outside jurisdictions, there is a consequence for those charged should they fail to appear in court or fail to comply, thus serving as a deterrent for wildlife violators from outside jurisdictions. In other words, adoption of MFC WVC rules would result in the N.C. Marine Patrol being able to treat all wildlife violators equally, regardless of their state residency.

WRC adopted rules to implement the WVC that became effective August 1, 2017 (15A NCAC 10A .1401-.1406). These six rules codified requirements to ratify suspensions from other member states, report suspensions to the WVC, send notices to those affected, and to give guidance on how to rectify or appeal suspensions to those affected. Per G.S. § 113-300.7, the WVC administrator is to be appointed by the chair of the WRC in consultation with the chair of the MFC and DMF director. The WVC administrator for North Carolina serves at the pleasure of the WRC chair.

There are several terms used in reference to the WVC that are helpful for DMF and MFC stakeholders to understand. Many of these terms are defined or referred to in G.S. § 113-300.6.

- "Wildlife" includes all species of animals that are protected or regulated by the WRC, MFC or DMF. This includes marine and estuarine species, e.g., fish. This differs from the definition of "Wildlife" in G.S. § 113-129(16), which excludes marine and estuarine species.
- "Wildlife violation" means any cited violation of a law or rule enacted or adopted to manage wildlife resources.
- A wildlife violation conviction can result in a product suspension, which for DMF and MFC stakeholders refers to the suspension or revocation of a commercial or recreational fishing license or permit for which the DMF has enforcement authority. Suspension of recreational fishing licenses or permits can include a Coastal Recreational Fishing License ("CRFL") or a Recreational Commercial Gear License ("RCGL") under the MFC's authority but sold by the WRC. A wildlife violation can also result in the loss of the privilege to obtain a fishing license or permit.
- Ratification under the WVC for DMF and MFC stakeholders means for DMF to recognize a violation and subsequent product suspension from another WVC member state by applying equivalent consequences to fishing privileges in N.C. marine and estuarine waters. Technically, the DMF would only be ratifying a product suspension, not also the violation or violations that led to a product suspension.
- "Personal recognizance" means an agreement by a person made at the issuance of a wildlife citation that the person will comply with the terms of that citation. For example, the terms may include appearing before a judge at a later time and/or paying a fine.
- Failure to appear refers to a person that did not comply with the terms of their citation; for example, a person that did not pay their fine ahead of time or appear for their court date in front of the judge.
- Failure to comply refers to a person that did not comply with the terms of their citation or judgment; for example, a person that did not pay their fine on or after their court appearance, or did not complete all of their community service hours, serve time, or comply with their probation, etc.

Although the WRC's rules have been in place since 2017, efforts to develop proposed MFC rules and processes to enact the WVC have moved slowly as DMF staff have worked to address the concerns described above. Currently, with the WRC actively participating in the WVC but the MFC and DMF not participating, the DMF has no voice or knowledge of suspensions being ratified or entered by the WRC on behalf of North Carolina. At a minimum, by the MFC adopting rules and the DMF joining the WVC, the DMF would have the ability to enter suspensions and to gain knowledge of wildlife violators that have product suspensions (i.e., licenses and permits) so that N.C. Marine Patrol officers could act to address those violations. Currently, the WRC colonel is the WVC administrator for North Carolina, so the DMF would have to rely on the WRC to coordinate the process of ratifying violations under the WVC. The DMF Marine Patrol staff have begun discussions to develop internal processes with the WRC enforcement staff on ways to do this as efficiently as possible.

Table 1 provides examples of wildlife violations (including all species of animals that are protected or regulated by the DMF and the MFC) to help demonstrate some of the advantages of the MFC complying with the legislative mandate to participate in the WVC.

Table 1. Examples of wildlife violations and subsequent suspensions with and without the DMF and MFC's participation in the WVC.

Wildlife violation type leading to suspension ratified in WVC	Without DMF/MFC participation in WVC	With DMF/MFC participation in WVC
Citizen of another state convicted of fishing violation outside of North Carolina and receives saltwater license suspension (all saltwater products)	No mechanism for N.C. Marine Patrol to even be notified if WRC ratifies the commercial and recreational license suspension	Mechanism in place for N.C. Marine Patrol to coordinate with the WRC about a decision to ratify the commercial and recreational license suspension
Citizen of another state convicted of fishing violation in North Carolina	No mechanism for N.C. Marine Patrol to avoid arresting/bonding of wildlife violator	Mechanism in place to release that citizen on personal recognizance to comply with the terms of their citation after the fact
N.C. citizen that is a N.C. licensed commercial fisherman convicted of fishing violation (commercial or recreational) outside of North Carolina and receives suspension of all fishing licenses	No mechanism for N.C. Marine Patrol to even be notified if WRC ratifies commercial and recreational license suspension	Mechanism in place for N.C. Marine Patrol to coordinate with the WRC about decision to ratify commercial and recreational license suspension
Review of all violation types leading to suspensions ratified in WVC	No additional administrative burden to DMF staff	Additional administrative burden to DMF staff

The WVC provides for flexibility in addressing differences in charging language or violations in other states and how to apply them in North Carolina and impacts to N.C. commercial license holders. The WVC provides a member state with latitude to apply suspensions only for similar offenses/license types, providing consideration for the variability for in-state charging penalties. As suspensions from member states are entered into the WVC database, they would be ratified or not ratified by the DMF based upon the similarity of the offense/license type as related to N.C. statute or rule, but the term of suspension would be set by the out-of-state jurisdiction. For example, if another member state entered a violation and subsequent saltwater license suspension of one year in the WVC, if the offense/license type as related to N.C. statute or rule was similar, the suspension for the other state would be ratified in North Carolina and the one-year suspension would be recognized for that person's N.C. marine and estuarine licenses and permits. For the inverse scenario, N.C. suspensions that are entered into the WVC would be reviewed by other member states as to the fit or similarity of a state's current statutes or rules, and member states would decide to ratify the N.C. suspension or not.

Violations charged by N.C. Marine Patrol officers span a range of levels depending on the violation and license type involved.

- G.S. 14-1. Felonies and misdemeanors defined. A felony is a crime which: (1) Was a felony at common law; (2) Is or may be punishable by death; (3) Is or may be punishable by imprisonment in the State's prison; or (4) Is denominated as a felony by statute. Any other crime is a misdemeanor.
- Misdemeanors (G.S. 14-3):
 - Class A1 misdemeanors carry a maximum sentence of 150 days in jail and a fine in an amount determined by the court.
 - The maximum penalty for a Class 1 misdemeanor is 120 days in jail and a fine in an amount determined by the court.
 - Class 2 misdemeanors carry up to 60 days in jail and a maximum fine of \$1,000.
 - A person convicted of a Class 3 misdemeanor faces up to 20 days' jail time and a \$200 fine.
- G.S. 14-3.1. Infraction defined; sanctions. (a) An infraction is a noncriminal violation of law not punishable by imprisonment. Unless otherwise provided by law, the sanction for a person found responsible for an infraction is a penalty of not more than one hundred dollars (\$100.00). The proceeds of penalties for infractions are payable to the county in which the infraction occurred for the use of the public schools. (b) The procedure for disposition of infractions is as provided in Article 66 of Chapter 15A of the General Statutes.

There are four levels of misdemeanor violations. Most marine fisheries-related violations are charged as a Class 3 misdemeanor under G.S. § 113-135; although repeat offenses are elevated to a Class 2 misdemeanor, while Coastal Recreational Fishing License violations under G.S. § 113-174.1(a) are charged as infractions. Some more serious violations are charged as A1 misdemeanors under G.S. § 113-187, including those that pose a risk to public health, such as commercial harvesting of shellfish from polluted waters, or directly damaging natural resources, such as trawling in a primary nursery area. The most severe fisheries-related charge is taking or possessing shellfish from a polluted area at night or taking shellfish from polluted waters within two years of being convicted of that same offense, each of which is charged as a Class I felony.

As with criminal charges, a violation supporting the more severe charges also carries a longer suspension and varies based upon the license type involved. For instance, a commercial license holder using a trawl net in closed waters would be charged under G.S. 113-187 (more severe penalty, Class A1 Misdemeanor), but a holder of a Recreational Commercial Gear License would be charged under G.S. 113-135 (less severe penalty, Class 3 Misdemeanor). The example of taking shellfish from a polluted area further highlights the options for determining a penalty depending on the egregiousness of the offense. If a person was charged under G.S. § 113-135 for a first offense for recreational harvest, there would be no suspension; if a person was charged under G.S. § 113-187 for a first offense there would be a one-year suspension; and if a person was charged under G.S. § 113-209 (felony; taking polluted shellfish at night or with prior conviction) there would be a revocation.

Convictions like those described above would be entered into the WVC database. Member states would then be able to apply suspensions for similar offenses/license types, so another member state may or may not ratify this suspension example in the same way or at all. However, the length or severity of a suspension may vary from other jurisdictions so the DMF would ratify as entered as prescribed in G.S. § 300.6 Article I (b)(4) (for convictions against a person whose home state

was not the issuing state) and Article V (all member states recognizing the suspension by any other member state of a person's licenses and permits).

For a suspension for failure to appear or comply issued by a member state, the wildlife violator would have to comply with the suspending jurisdiction before North Carolina would reinstate their license. Most WRC suspensions are for a single violation and for that reason they only ratify certain suspensions that would result in a suspension in North Carolina. (A second offense within three years would be charged as a Class 2 misdemeanor and if convicted, that person would receive a license suspension.) In contrast, DMF subject matter-based convictions are cumulative and could result in a suspension if there was more than one conviction within three years.

III. Discussion

House Bill 105 established a clear mandate for the MFC to implement the WVC. The WRC has enacted rules to implement the WVC and is currently administering the Act for the State. Complying with this legislative mandate provides a wide range of benefits not only to the MFC and DMF, but also to the regulated public. Those benefits include:

- ensuring that N.C. residents issued citations in other jurisdictions can be released on personal recognizance like residents of member states;
- the ability to recognize reciprocal license suspensions, and suspensions for failure to appear in court or comply; and
- providing N.C. Marine Patrol officers with the flexibility to write non-resident violators a citation instead of arresting and bonding them.

It is not the current N.C. Marine Patrol policy to arrest all non-resident wildlife violators; officers would only arrest if they had reason to believe the wildlife violators would fail to appear in court or comply. But entering the WVC would give N.C. Marine Patrol officers increased confidence by knowing that if a wildlife violator does fail to appear in court there is recourse for the wildlife violator's license to be suspended in their home state. Agency benefits include:

- more time for patrol and less time processing wildlife violators;
- reduced burden on courts and jail facilities;
- improved public relations by not having to subject as many wildlife violators to bonding and incarceration;
- reduced failure to appear and non-compliance cases; and
- notice to wildlife violators that activities in any single member state can affect their privileges in all member states.

With the adoption of these rules by the MFC, the DMF would join the WRC in a reciprocal agreement representing 49 states to promote compliance with the statutes, laws, and rules/regulations relating to management of wildlife resources (including all species of animals that are protected or regulated by the DMF and the MFC). Suspensions that are entered into the WVC database by other states already impact Coastal Recreational Fishing Licenses (CRFL) because of the way most WRC licenses are packaged, such as sportsman's licenses or inland/coastal combinations. There are also instances of cross-agency suspensions when another member state suspends all products, and the WRC ratifies as such. The WRC could ratify a coastal/saltwater suspension or an all-product suspension (including commercial products) from

another state that would trigger the suspension of a person's North Carolina coastal/saltwater products. This is problematic, as there is currently no mechanism by which DMF staff would be notified of the suspensions WRC would be ratifying. Conversely, a suspension that is warranted may not be ratified as the WRC may be unfamiliar with the charging or suspending language and license types, as WRC staff do not have access to the DMF database (Fisheries Information Network, or FIN) of commercial products a person possesses. Implementing the WVC would be the first step towards the DMF giving and receiving suspension information. The DMF would be able to enter suspensions and send notices to offenders independent of the WRC. A policy or an agreement between the agencies should also be considered and a Marine Fisheries representative should be assigned to oversee the flow of information between the agencies and notices to offenders.

Commercial licenses present another issue. Other states are split on whether commercial licenses are affected by WVC suspensions. The current WVC Compact Manager and Major of the Pennsylvania Game Commission, Michael Reeder, stated that this is left up to each individual state. The North Carolina legislation for the WVC does not distinguish between recreational and commercial licenses. Rather, G.S. § 113-300.6 (8) defines "license" to mean "any license, permit, or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a party state." By not excluding commercial licenses in the legislation, the General Assembly has opted to include commercial licenses in the WVC.

G.S. § 113-300.7 requires both the MFC and the WRC to adopt rules necessary to implement the WVC. The WVC Manual and G.S. § 113-300.6 can serve as a template for the DMF as the administrative and procedural blueprints for implementation of the WVC. The proposed MFC rules would establish conditions for non-residents who commit misdemeanor fishing violations in North Carolina that result in a license suspension and failure to comply with the terms of their citation. The proposed MFC rules would establish the standards for the DMF to carry out the purpose of Article 22B. The rules would impact the criminal and administrative processing of non-resident wildlife violators and would impact the administrative procedures for resident wildlife violators. These rules would only apply to licenses and violation types within the DMF/MFC's jurisdiction.

An example of how this process would work is an N.C. resident receives a suspension after being convicted of taking shellfish from polluted waters in a member state. If the conviction from that member state resulted in a six-month suspension, that suspension would likewise be ratified in North Carolina. Similarly, if a resident from another member state was convicted in North Carolina of taking shellfish from polluted waters, DMF would enter the corresponding suspension terms into the WVC database. It would then be up to that person's home jurisdiction as well as all the other member states to ratify or not. Also, suspensions that occur in a person's home state would be entered into the WVC so that member states could decide to ratify or not. As a WVC member, the DMF would be required to communicate all license suspension information through the WVC database to other participating states, and to determine if any suspension from another member state could have led to license suspension in North Carolina. If so, the licensing agency would issue an administrative suspension to that N.C. license holder.

One challenge presented by the WVC lies in determining whether to ratify a member state's suspension. DMF proposes to make this determination based upon the license type involved and type and severity of the violation. Under the WVC, only suspensions for violation types listed in the WVC manual as well as those that could be a basis for suspension by North Carolina may be considered. They are:

- illegal take of big game;
- illegal take or possession of endangered species;
- felony wildlife violations;
- license violations/fraud/false statement;
- waste of wildlife (e.g., out-of-season duck hunting violation);
- accumulated wildlife violations;
- violations while on revocation;
- sale/purchase of wildlife; and
- failure to appear.

Also included in considered offenses are:

- illegal take or possession of small game or migratory birds;
- illegal take or possession of fish;
- illegal take or possession of other wildlife;
- tag/permit/license transfer;
- federal wildlife violations;
- other criminal violations;
- guide/outfitter violations;
- safety violations;
- trespass violations;
- littering violations; and
- interfering with an officer.

Although the statute allows all suspension types from other jurisdictions to be ratified, the DMF recommends limiting the ratification of suspensions to egregious violations or those that are consistent within the DMF's subject matter. The DMF would not consider big game, small game, or migratory bird violations or any suspensions based strictly on hunting violations. However, cumulative hunting and fishing violations that trigger a suspension may be considered.

In considering suspensions, it is important to understand the suspension "triggers" in North Carolina. Presently, suspensions vary based upon the nature of the offense, the resource impacted, and the license type at issue. The consequences of some violations are more severe if the violation was committed during or as a result of occurring as part of a commercial fishing operation, such as commercially taking shellfish from polluted areas. All convictions for marine fisheries violations have a cumulative count towards suspensions within a three-year period. North Carolina's rules and statutes for suspension also affect all the products that a person holds (commercial and recreational). However, if a member state only suspended commercial or recreational products or only freshwater or saltwater products, the DMF would ratify as entered by the member state. Persons who are suspended under G.S. 113-300.6 are given appeals protections in G.S. 150B-23, as laid out in 15A NCAC 03O .0606. Table 2 provides specific

examples of wildlife violations and how those would be considered by DMF and potentially applied to N.C. licenses and products. A wildlife violator must address their violation to address their suspension. For instance, if a person, resident or nonresident, was suspended for failure to appear or failure to comply from a member state, that person would need to pay their fine or comply with the judgement from the court (e.g., community service, time served, pay restitution) and provide documentation of that compliance to the member state that issued the suspension so that the suspension could be removed from the compact database and the person's license privileges and products could be returned.

IV. Fiscal Analysis

The purpose of this document is to examine the potential economic impacts (costs and benefits) of the proposed Compact rules.

There are currently a total of 623 (ratified and entered) suspensions in the Compact database. There are approximately 6 to 12 suspensions that are entered into the Compact database each day. Under the proposed rules, if license holders entered into the database are ratified, then their licenses will be suspended in North Carolina as decided through a combined effort between DMF Marine Patrol Officers and Wildlife Resource Officers. There would be an associated cost to the State with the process of reviewing and entering suspensions into the Compact database in the form of Marine Patrol time.

There is not a direct cost to member states to join the WVC, but there are fees associated with accessing the Compact database. Those costs are already paid through the State's Compact administrator's commission, which for North Carolina is the Wildlife Resource Commission. There will not be any direct additional costs to access the Compact database.

The Compact database is set up similarly to other databases that Marine Patrol administrators have experience working with and is not expected to require any additional formal training. Marine Patrol administrators have already worked with WRC administrators and were quickly introduced to the software. Reviewing North Carolina resident additions to the Compact by other states is expected to happen in two phases.

In the first phase, a Marine Patrol supervisor will sort through the new entries and identify suspensions that will be ratified. This process is expected to cost the state 1.5 hours per week resulting in a total time cost of \$6,471 per year (1.5 hours per week at \$82.96/hour¹ for 52 weeks).

In the second phase, a Marine Patrol administrator will review the recommendation, prepare the notification to the suspended licensee, and send out the notification of suspension by mail or, in egregious cases, through service suspension. The time cost to the State for the Marine Patrol Administrator is expected to be \$2,906 (1.5 hours per week at \$37.26/hour² for 52 weeks). The DMF suspends very few products (licenses and permits) each month with an average of two. This

¹ Marine Patrol supervisor hourly rate includes average hourly salary plus fringe calculated using: [NC OSHR: Total Compensation Calculator](#).

² Marine Patrol administrator hourly rate includes average hourly salary plus fringe calculated using: [NC OSHR: Total Compensation Calculator](#).

analysis uses a conservative estimate of three suspensions per month per year. If the suspension is sent out through mail that suspension is expected to cost the DMF an estimated maximum of \$52.80 per year (1 certified letter per month at \$4.40 per letter). If the suspension is sent through service suspension a Marine Patrol officer will physically deliver the suspension notification and confiscate the licenses that are suspended which would result in a time cost to the DMF of \$2,642 (2 hours per suspension delivery at \$33.87/hour³ 2 per month for 12 months). The estimated total quantified time cost to the state would be approximately \$12,019 each year.

Joining the Compact is expected to alleviate the concern that Marine Patrol officers could have that out-of-state offenders may not ever address their citation which would result in an officer making an arrest. Arrests take up considerably more time than administering a citation. It is estimated that about two arrests per year are made to ensure the out-of-state offender pays their fine. DMF participation in the Compact will reduce the likelihood that those arrests will occur as the citation administered in North Carolina could be ratified in the offender's home state if that state is one of the forty-eight states that are active members of the compact (Massachusetts and Hawaii are in the process of joining the compact but are not active members at this time). Though the exact fiscal impact associated with this benefit is unquantifiable due to lack of data, DMF estimates that approximately 7 hours are spent arresting and processing a non-resident violator. The yearly time cost savings to the State is estimated to be \$474 (7 hours per arrest at \$33.87/hour, twice a year). This benefit could also reduce the burden on local courts and jail facilities as a result of the decreased case load involving immediate appearances, bonding and incarceration. The exact fiscal impact of this benefit is unquantifiable due to lack of data.

There may be an unquantifiable cost to DMF license holders that are suspended in other states through the Compact. If their suspensions are ratified in North Carolina, they will not be able to participate in DMF licensed or permitted activities. Though the mechanism of suspension is identical across license and permit types, the level of impact to stakeholders may vary. For example, a suspension for a DMF license or permit holder that participates in regulated activity sporadically will have a different consequence than a suspension for a DMF license holder who relies on their DMF product to provide income.

There will be a minimal time cost to develop a system with WRC to best assess Compact additions and decide on suspension ratifications. The DMF Marine Patrol staff have begun discussions to develop these internal and cross agency processes.

One main benefit of the DMF's participation in the Compact will be in the form of incremental improvement to resource protection and protection of public health and safety. Adoption of the proposed rules will likely result in benefits to the licensed and general public by further protection of estuarine and marine resources from illegal activity that can pose threats to fish and wildlife populations as well as to human health and safety. Through the DMF's involvement in the Compact, the enforcement of suspensions of DMF permits and licenses will be increased. Currently, there is not a mechanism for suspended licenses through the Compact to be enforced for DMF issued licenses and permits.

³ Marine Patrol officer hourly rate includes average hourly salary plus fringe calculated using: [NC OSHR: Total Compensation Calculator](#).

The ability to ratify suspensions for both N.C. residents and non-residents who possess licenses or permits in North Carolina will ensure that fishers who have their privileges suspended in other states will not be able to purchase, apply for, or possess a license or permit in North Carolina until their suspensions are addressed in member states. Participation by the DMF in the Compact may not change the number of stakeholders that receive suspensions in other states but may change the number of ratifications of other state suspensions. The DMF's participation will ensure the DMF can document and track stakeholders entered into the Compact and, when applicable, suspend DMF administered licenses.

The protection of the DMF managed resources through the DMF's involvement in the Compact will not be quantifiable but will be real.

Summary of Estimated Impacts:

Benefits	Yearly/Ongoing
State	\$474 in time savings for DMF enforcement staff from avoided arrests of out-of-state violators + unquantified time savings to state law enforcement officers
Local	Unquantified savings of county court time and resource costs due to decreased case loads
Private	Unquantifiable benefits to the public and stakeholders in the form of improvement to resource protection and protection of public health and safety.
Costs	Yearly/Ongoing
State	\$12,019 time cost to DMF enforcement staff to identify and process suspensions + \$52.80 postage cost. Unquantified, minimal time costs to DMF and WRC staff to coordinate assessments.
Local	None
Private	Unquantifiable opportunity costs to stakeholders from increased possibility of suspension in NC. These costs would be from not being able to participate in DMF-permitted/licensed activities.

Appendix: Proposed Rule Changes

VI. PROPOSED RULE(S)

15A NCAC 03O .0601 is proposed for adoption as follows:

SECTION .0600 – INTERSTATE WILDLIFE VIOLATOR COMPACT (WVC)

15A NCAC 03O .0601 WVC GENERAL PROVISIONS

(a) The purpose of this Section is to establish the rules necessary to implement G.S. 113 Article 22B, the Interstate Wildlife Violator Compact (hereinafter referred to as WVC).

(b) The rules in this Section shall apply to any person possessing a license, privilege, or right to take, possess, sell, buy, or transport wildlife in the State of North Carolina. Violations under this Section apply only to offenses charged by an inspector as set forth in laws or rules administered by the Division of Marine Fisheries or under G.S. 113-136(d). The rules shall not apply to any offenses committed in North Carolina or any other WVC state prior to July 1, 2025.

(c) The definitions in G.S. 113-300.6 Article II shall apply throughout this Section and to all forms prescribed pursuant to this Section, unless otherwise indicated.

(d) For the purpose of this Section, "member state" shall mean "party state" as defined in G.S. 113-300.6.

*History Note: Authority G.S. 113-134; 113-300.7;
Eff. May 1, 2025.*

15A NCAC 03O .0602 is proposed for adoption as follows:

15A NCAC 03O .0602 WVC OPERATIONS MANUAL

The Wildlife Violator Compact Operations Manual and G.S. 113-300.6 hereby establish the administrative and procedural guidelines for participation in the WVC. The Wildlife Violator Compact Operations Manual is incorporated by reference including subsequent amendments and editions, and is available at <http://www.ncwildlife.org> or <http://www.deq.nc.gov/wildlifeviolatorcompact>, at no cost.

*History Note: Authority G.S. 113-134; 113-300.7;
Eff. May 1, 2025.*

15A NCAC 03O .0603 is proposed for adoption as follows:

15A NCAC 03O .0603 WVC CONDITIONS FOR N.C. VIOLATIONS BY NON-RESIDENTS

(a) All offenses charged by an inspector as set forth in laws or rules administered by the Division of Marine Fisheries or under G.S. 113-136(d) are subject to the provisions of the WVC.

(b) Non-residents of North Carolina who are residents of a WVC member state at the time of a misdemeanor violation as set forth in Paragraph (a) of this Rule occurring in North Carolina may be released on personal recognizance when the violation consists of a written citation requiring a violator to resolve the violation directly with the court, either in person, by mail, or through an attorney.

(c) Upon failure to comply with the terms of a citation issued by an inspector, the Division shall send notice of failure to comply. The notice shall be a letter sent by the U.S. Postal Service to the last known address of the wildlife violator or be delivered personally. The Division shall report the failure to comply to the non-resident's home state to start suspension procedures in accordance with the Wildlife Violator Compact Operations Manual.

(d) To have any licenses or permits returned by the Division, the non-resident shall submit to the Division a judgment, receipt, or other official record indicating that the citation has been resolved through the North Carolina Court System. The Division shall return affected licenses and permits.

*History Note: Authority G.S. 113-134; 113-300.7;
Eff. May 1, 2025.*

15A NCAC 03O .0604 is proposed for adoption as follows:

15A NCAC 03O .0604 WVC CONDITIONS FOR N.C. RESIDENTS FOR FAILURE TO APPEAR OR FAILURE TO COMPLY IN ANOTHER WVC MEMBER STATE

(a) North Carolina residents who commit a wildlife violation as defined by G.S. 113-300.6 in another WVC member state, who upon release on personal recognizance from the issuing state, failed to resolve the terms of his or her citation, shall have any licenses and permits for which the Division of Marine Fisheries has enforcement authority in North Carolina suspended pursuant to G.S. 113-300.7.

(b) If the Division receives notice of an unresolved citation, a Notice of Suspension shall be prepared and sent to the wildlife violator as follows:

- (1) the suspension shall have a delayed effective date of at least 14 business days from the date of the mail used to send the notice of suspension to the wildlife violator, to allow the wildlife violator to contact the court in the issuing state and resolve the citation;
- (2) the notice shall be a letter sent by the U.S. Postal Service to the last known address of the wildlife violator or be delivered personally;
- (3) the notice of suspension shall inform the violator of the issuing state from which the wildlife violator is suspended, the details of the violation provided by that issuing state to the Division, and procedures to be followed in resolving the matter with the court in the issuing state; and
- (4) the notice shall provide the procedure for appealing the suspension.

(c) Any suspension ratified by the Division shall remain in effect until such time as the North Carolina resident resolves the violation in the issuing state.

(d) When a North Carolina resident resolves a violation with the court in the issuing state, it is the responsibility of the resident to notify the Division and present documentation of compliance by submitting a copy of either the court judgment resolving the matter or a Notice of Compliance from the issuing state. Upon receipt of the required documentation, the Division shall issue an acknowledgement of compliance to the resident. If the acknowledgement is issued before the effective date of the suspension, the suspension shall be rescinded. If the acknowledgment of compliance is issued after the effective date of the suspension, the Division shall return any licenses or permits.

(e) The issuing state shall be notified by the Division if the suspension order is overturned by the Office of Administrative Hearings.

*History Note: Authority G.S. 113-134; 113-300.7; 143B-289.52;
Eff. May 1, 2025.*

15A NCAC 03O .0605 is proposed for adoption as follows:

15A NCAC 03O .0605 WVC RECIPROCAL RECOGNITION OF SUSPENSIONS

(a) When the Division of Marine Fisheries receives notice of a suspension from a WVC member state of a person's license or permit that is the result of a conviction or an accumulation of convictions of wildlife violations in one or more WVC member states, the Division shall determine whether the conviction, or accumulation of convictions, leading to the suspension could have led to the suspension of licenses and permits for which the Division has enforcement authority pursuant to Chapter 113, Subchapter IV of the General Statutes. If it is determined that the person's licenses and permits would have been suspended under Chapter 113, Subchapter IV of the General Statutes, the person's North Carolina licenses and permits shall be suspended pursuant to G.S. 113-300.7 for the period of suspension imposed by the WVC member state where the violation occurred.

(b) North Carolina shall communicate suspension information to other WVC member states using the WVC database, and may include the following information about the wildlife violator:

- (1) name;
- (2) date of birth;
- (3) last known address;
- (4) violations and convictions upon which the suspension is based;
- (5) scope of the suspension (e.g., fishing, hunting, trapping, all privileges or rights); and
- (6) effective dates of the suspension and term of the suspension.

(c) In the event documentation of a violation and subsequent license suspension is needed by a WVC member state for license suspension hearings or other purposes, the Division may provide certified copies of the citation or other charging instrument, any arrest or investigation reports, suspension orders, and the disposition of the matter.

*History Note: Authority G.S. 113-134; 113-300.7; 143B-289.52;
Eff. May 1, 2025.*

15A NCAC 03O .0606 is proposed for adoption as follows:

15A NCAC 03O .0606 APPEALS

A person served with a notice of suspension or revocation pursuant to this Section may obtain an administrative review of the suspension or revocation pursuant to G.S. 150B-23. Notice of the right to administrative review shall be included in the notice of suspension or revocation.

*History Note: Authority G.S. 113-134; 113-300.7; 143B-289.52;
Eff. May 1, 2025.*