



Fiscal Note for Proposed Enforcement Division Rule Amendments to 15A NCAC 10A.1400

Interstate Wildlife Violator Compact Rules

Rule Amendments: 15A NCAC 10A.1401 General Provisions
15A NCAC 10A.1402 Wildlife Violator Compact Manual
15A NCAC 10A.1403 Wildlife Violator Compact Conditions for Non-Residents
15A NCAC 10A.1404 Wildlife Violator Compact Conditions for Residents
15A NCAC 10A.1405 Reciprocal Recognition of Suspensions
15A NCAC 10A.1406 Appeal

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Impact Summary: State Government: Yes
Local Government: Yes
Private Impact: Yes
Substantial Economic Impact: No

Authority: G.S. § 113-300.7, 113-134

Necessity: G.S. § 113-300.7 requires the Wildlife Resources Commission and the Division of Marine Fisheries (hereinafter, licensing agencies) to adopt rules necessary to carry out the purpose of the Article 22B.

I. Summary

The Interstate Wildlife Violator Compact (hereinafter, WVC), is a voluntary interstate agreement which 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.

The NC Legislature adopted the Compact (Article 22B) in statute via Senate Bill 175 in 2008. The bill was signed into law on July 14, 2008 and became effective October 1, 2008. In 2009, House Bill 105 added the Division of Marine Fisheries and their resources to the definition of

“wildlife”. This act became effective October 1, 2009. G.S. § 113-300.7 requires the Wildlife Resources Commission and the Division of Marine Fisheries (hereinafter, licensing agencies) to adopt rules necessary to carry out the purpose of Article 22B.

Entry into the WVC will afford the NC licensing agencies two major benefits, the first being reciprocal recognition of license suspensions and the second being enhanced flexibility when dealing with non-resident violators.

II. Introduction and Purpose of Proposed Rules

With the adoption of these rules, North Carolina will sign a reciprocal agreement with 43 states to promote compliance with the statutes, laws and rules/regulations relating to management of wildlife resources and enhance the ability to provide for the fair and impartial treatment of wildlife violators operating within participating states. The WVC has benefits for both the consumer and licensing agencies. Consumer benefits include: reduced delays and inconvenience associated with arrest are comparable for residents and non-residents; and personal recognizance in many cases involving wildlife violations. Agency benefits include: more time for patrol and less time processing violators; reduced burden on courts and jail facilities; improved public relations by not having to subject as many violators to bonding and incarceration; reduced failure to appear and non-compliance cases; and notice to violators, that activities in one state can affect their privileges in all participating states.

G.S. § 113-300.7 requires the licensing agencies to adopt rules necessary to carry out the WVC. The proposed rules in 10A .1400 will establish the standards for the licensing agencies to carry out the purpose of G.S. § 113 Article 22B. They are necessary for NC to become a member of the WVC and for the hunting, fishing and trapping licensing agencies in NC to enforce and implement the WVC. The rules will impact the processing of non-resident wildlife violators and will impact the administrative procedures regarding processing resident wildlife violators. These rules only apply to hunting, fishing and trapping violations. The Wildlife Violator Compact Manual and G.S. § 113-300.6 will be used as the administrative and procedural guidelines for implementation of the WVC.

The proposed rules will establish conditions for out-of-state residents who commit misdemeanor hunting, fishing or trapping violations in North Carolina, resulting in licenses suspension, and fail to comply with the terms of their citation. This is necessary to provide wildlife enforcement officers the flexibility to write non-resident violators a citation and release them on recognizance instead of arresting them. It will also likely become a deterrent to non-residents who either: (1) come to NC with the intention of violating a wildlife regulation because there are no repercussions; or (2) fail to resolve their violation, then return to their home state to exercise their right to hunt, fish and/or trap. This rule will guide the NC licensing agency on reporting un-resolved misdemeanor violations of non-residents to their home state, so that their

license can be suspended in that state. This rule is necessary to provide flexibility to NC licensing agencies for handling non-resident violators and reporting unresolved non-resident misdemeanor violations to the violator's home state.

The rules will also provide conditions for NC residents who violate wildlife laws in other WVC states and fail to resolve their violation. This rule guides the NC licensing agency on administrative suspension of the residents NC license in accordance with WVC provisions. North Carolina licensing agencies do not currently utilize administrative suspensions for failure-to-comply in other states, but this will be a deterrent for residents who violate wildlife laws in other states without expectation of repercussions.

As a WVC member, the NC licensing agency is required to communicate all license suspension information through the WVC database to other participating states, and to determine if any violation or accumulation of violations resulting in license suspension in another WVC state, could have led to license suspension in NC. If so, the licensing agency will issue an administrative suspension to that NC license holder. The proposed rules are necessary to guide the NC licensing agency in the determination of reciprocal suspension of resident and non-resident licenses.

III. Fiscal Impacts – Costs

State Impact

15A NCAC 10A .1402 - There is no cost to join the WVC, but member states are required to have access to the Compact database. Additionally, licensing agency staff will need to be trained on use of the database and procedures will need to be developed to guide administration of the Compact. Documents used for administering the Compact, including: Home State Notice of Failure to Comply, Defendants Notice of Failure to Comply, Defendants Notice of Compliance, Home State Notice of Compliance and Notice of Suspension, will need to be prepared. Preparation of procedures and documents will be completed by law enforcement (LE) supervisory staff. It is estimated that approximately 55 hours will be needed for this task. This will be a one-time cost to the agency of approximately \$2,420 (\$44/hr x 55 hrs = \$2,420). Database access will cost the Agency \$300 per year¹. Both a LE supervisor and an administrative processing assistant will undergo database and administration training at a one-time cost of approximately \$2,800 ((\$44/hr x 40 hrs = \$1,760) + (\$26/hr x 40 hrs = \$1040) = \$2,800). Out-of-state travel for training may be necessary for both staff members, at a one-time cost to the agency of \$716 ((\$79.50/night x 3 nights x 2 people = \$477/ person) + (\$39.90/day x 3 days x 2 people = \$239.40) = \$716.40). The total year-one cost for WVC membership is estimated to be \$6,236.40, with a recurring cost of \$300/year thereafter.

15A NCAC 10A .1403 - Non-resident suspensions make up only 2.5% (average of 4 per year) of

¹ Cost obtained from telephone correspondence with Georgia Compact Administrator, 2016.

total license suspensions in North Carolina². With this relatively small percentage, it is estimated that staff would spend approximately two hours per month³ on data entry, tracking, reporting and corresponding with non-resident violators and their home states, as required by this rule. Data entry and tracking would cost the agency an additional \$312/year (Processing Asst.: \$26/hr x 1 hr/mo x 12 mos/yr = \$312). Follow-up and reporting associated with non-resident failure to comply would cost the agency approximately \$528/year (LE Supervisor: \$44/hr x 1 hr/mo x 12 mos/yr = \$528). Additional costs associated with notifying violators and their home state via certified mail, of failure-to-comply are estimated, based on data from Georgia and South Carolina, to be minimal (\$6.50/certified letter X 1/month x 12 mo/yr = \$78/year). Overall, this rule is estimated to cost the Agency an additional \$918 per year.

15A NCAC 10A .1404 - Because the agency does not currently utilize administrative suspensions for failure-to-comply, it is difficult to accurately estimate the case load that would be acquired because of this rule. However, the fiscal impacts are expected to be minimal, as there are currently only 43 NC residents in the WVC database⁴ due to license suspensions in other WVC states, and it is not likely that all of those suspensions are for failure-to-comply, nor that they were all entered in the same year. Therefore, it can reasonably be estimated that approximately 5 hours of additional staff time would be required per month to track, review and issue failure-to-comply suspensions to residents as required by this rule. Administrative staff time for tracking suspensions would cost the agency an additional \$624/year (\$26/hr x 2 hrs/mo x 12 mos/year = \$624). Law enforcement supervisor time for reviewing, issuing suspensions and reporting is estimated to cost the agency an additional \$1,584/year (\$44/hr x 3 hrs/mo x 12 mos/yr = \$1,584). The additional cost is an estimated \$2,364 per year.

15A NCAC 10A .1405 - Based on 2014-15 Wildlife Resources Commission data, an average of 155 license suspensions occur in NC each year. Membership in the WVC and compliance with this rule, will require administrative staff to enter all hunting, fishing and trapping license suspension information into the WVC database. Data entry requires approximately 10 minutes per suspension to enter in ALVIN⁵ (Automated License and Vessel Information Network). If the Agency assumes that 13 licenses are suspended each month, this task will cost an approximately \$686.40 per year (\$26/hr x 2.2 hrs/mo x 12 mos/yr = \$686.40).

Administrative staff will also need to retrieve suspension information from the WVC database, and compare that information to license holder data for North Carolina. For NC licensees with convictions/suspensions in other states, a LE supervisor will review the violation information and determine if it could have led to license suspension under North Carolina law. Based on the current number of NC residents in the WVC database, it is estimated that data for up to 43 residents per year would need to be compared to in-state licensee information. Data retrieval and comparison would require an additional 25 minutes per license. Assuming 4 NC residents per month are added to the WVC database by other states, data retrieval and comparison would add

² Based on license data from 2014-15.

³ Estimated time based on data from Georgia and South Carolina.

⁴ License suspension information pulled from WVC database in 2014.

⁵ Personal correspondence with NCWRC Processing Assistant, July 2016.

approximately one hour and 40 minutes of administrative staff time per month, costing the agency an additional \$517.92 per year ($\$26/\text{hr} \times 1.66 \text{ hrs}/\text{mo} \times 12 \text{ mos}/\text{yr} = \517.92).

A LE supervisor will need to review the out-of-state convictions to determine if the violation would have resulted in license suspension under North Carolina law. If the violator's license would have been suspended under NC law, staff will proceed with an administrative license suspension. If the violation would not have resulted in suspension under NC law, no further action will be taken. Information on the NC licensing agency's final decision will then be entered in the WVC database. Costs associated with review, administrative license suspension and data entry for up to four residents per month, would cost the agency approximately \$1,584 per year ($\$44/\text{hr} \times 3 \text{ hrs}/\text{mo} \times 12 \text{ mos}/\text{yr} = \$1,584$).

A total of approximately 7 hours of staff time would be required each month to enter, retrieve, review, and correspond with violators about reciprocal license suspensions, at a cost of \$2,788.32 per year to the agency ($\$686.40 + \$517.92 + \$1584 = \$2,788.32$). Minimal additional resources associated with the cost of issuing up to five resident suspensions via certified mail per month are estimated to add \$390 per year ($\$6.50/\text{certified letter} \times 5 \text{ letters}/\text{mo} \times 12 \text{ mos}/\text{year} = \390). This rule in its entirety is estimated to cost the agency an additional \$3,178.32 per year.

IV. Fiscal Impacts – Benefits

State Benefit

Membership in the WVC will likely benefit the licensing agencies by altering violator behavior to decrease the number of both resident and non-resident wildlife violators and increase the number of violations resolved.

A major benefit of this rule is that it strengthens citations issued to non-resident violators. The option of issuing citations over arrest for non-residents may reduce the burden and time associated with immediate appearance, bonding or incarceration, as well as "Failure to Appear" cases, as non-residents will not be able to ignore their citation without facing suspension of their hunting, fishing or trapping privileges in their home state. Though the exact fiscal impact associated with this benefit is unquantifiable due to lack of data, the agency estimates that approximately 2 hours are spent in the process of arresting a non-resident violator. It is anticipated that this rule will allow officers to spend more time on their other duties.

This benefit is also likely to decrease the burden on local courts and jail facilities because of the decreased case load involving immediate appearances, bonding and incarceration. The exact local impacts of the rule are unquantifiable due to lack of data.

Another benefit of this rule is that administrative suspensions for NC residents who either (1) have their privileges suspended in other states; or (2) fail to comply with citations issued in other WVC states, are likely to prevent those residents from committing violations in NC. Thus the proposed rules also have the potential to reduce the number of resident violations resulting in license suspensions. Administrative suspensions issued to residents based on reciprocity are

expected to save law enforcement officer time spent issuing and handling violations in the field and in county court (approximately 2 hours per resident violator⁶), and administrative staff time entering and processing license suspensions (approximately 10 minutes per suspension). If the agency assumes that a quarter of the 43 resident suspensions currently in the WVC database would have resulted in administrative suspensions in NC, approximately 11 fewer suspension violations may have occurred each year, thus saving the agency \$726 in officer time ($\$33/\text{hr} \times 2 \text{ hrs}/\text{vio} \times 11 \text{ vios}/\text{yr} = \726) and \$45.76 in administrative staff time ($\$26/\text{hr} \times .16 \text{ hrs}/\text{vio} \times 11 \text{ vios}/\text{yr} = \45.76).

Additionally, administrative suspensions issued to residents who fail to resolve violations in member states have the potential to reduce the time that law enforcement officers spend identifying, issuing and handling resident hunting, fishing or trapping violations. If the agency assumes that 3⁷ residents will fail to comply with violations received in other compact member states each year, and that law enforcement officers spend approximately 2 hours per violator, this would save the agency approximately \$198 per year ($\$33/\text{hr} \times 2 \text{ hrs}/\text{vio} \times 3 \text{ vios}/\text{yr} = \198).

V. Uncertainties

State Impact

Additional staff time may be required if a NC resident files a petition with the Office of Administrative hearings to contest a licensing agency's final decision on license suspension, but this cost is unquantifiable due to lack of data.

Local Impact

If the agency assumes that the number of resident violators will decrease, the county courts will hear fewer suspension cases each year. This will minimally benefit the local court systems.

Private Impact

These rules may result in minimal loss to the local economy from decreased sale of hunting, fishing or trapping supplies to both resident and non-resident sportsmen. This minimal impact would likely last the duration of the person's license suspension. The agency has no way to determine this fiscal impact.

Private Benefit

The new enforcement mechanisms and inter-state repercussions associated with North Carolina's membership in the WVC is likely to provide more opportunities for law-abiding sportsmen by discouraging the unlawful harvest of wildlife. However, this potential benefit cannot be quantified, as the agency has no way of estimating how many violators will be deterred.

⁶ Personal correspondence with law enforcement staff August, 2016.

⁷ Average of yearly failure-to-comply cases in GA, MS, AL and OK.

VI. Economic Impact Summary

In estimating the economic impact of the proposed WVC rules, the agency expects a cost of approximately \$12,697 in year one and a recurring cost of approximately \$6,760 each year thereafter. While a number of benefits associated with the proposed rules have been identified, most cannot be quantified because of lack of data. The only quantifiable annual benefit is an estimated \$970 to the state. Based on this information, the net impact of the proposed rules is estimated at \$11,727 in fiscal year 2017-2018 and \$5,790 each fiscal year thereafter.

Table 1: Net Economic Impact Summary

	FY 17-18	FY 18-19
Benefits		
State Government	\$ 970 + LEO ¹	\$ 970 + LEO ¹
Local Government	\$ C ²	\$ C ²
Private Sector	\$ -	\$ -
Costs		
State Government	\$ (12,697)	\$ (6,760)
Local Government	\$ -	\$ -
Private Sector	\$ PI ³	\$ PI ³
Net Impact	\$ (11,727 + PI ³) - LEO ¹ - C ²	\$ (5,790 + PI ³) - LEO ¹ - C ²

¹LEO represents the unquantified benefit of time saved by Law Enforcement Officers releasing non-residents on recognizance instead of arresting them.

²C represents the unquantified benefit of county court costs saved due to decreased case load involving immediate appearances, bonding and incarceration; and fewer suspension cases head by the courts each year.

³PI represents unquantifiable costs to private individuals and the local economy due to loss of sales and inability to consume wild game.

APPENDIX A: PROPOSED RULES

15A NCAC 10A .1401 GENERAL PROVISIONS

(a) Purpose. The purpose of this section is to establish the rules necessary to carry out the purposes of Chapter 113 Article 22B, the Interstate Wildlife Violator Compact (hereinafter referred to as WVC).

(b) Applicability. The rules in Section .1400 shall apply to any person possessing a license, privilege or right to hunt, fish, trap, possess, or transport wildlife in the State of North Carolina. Violations under this Section apply to only hunting, fishing and trapping. This rule shall not apply to any suspensions or convictions committed in North Carolina or any other WVC state prior to the effective date of North Carolina's entry into the WVC.

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

Authority GS 113-300.7, 113-300.8, 113 Article 21

15A NCAC 10A .1402 WILDLIFE VIOLATOR COMPACT MANUAL

(a) Subject to all applicable statutes and the constitution of the State of North Carolina, the Wildlife Violator Compact Operations Manual and G.S. § 113-300.6 hereby establish the administrative and procedural guidelines for participation in the WVC.

Authority GS 113-300.6, 113-300.7

15A NCAC 10A.1403 WILDLIFE VIOLATOR COMPACT CONDITIONS FOR NON-RESIDENTS

(a) Non-residents of North Carolina who are residents of a WVC member state at the time of a misdemeanor hunting, fishing, or trapping violation 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.

(b) The following violations are not subject to the provisions of the WVC.

(1) any felony or misdemeanor violation of any North Carolina law with which the non-resident is charged other than a hunting, trapping or fishing violation.

(2) any hunting, fishing or trapping offense which also gives rise to a charge of assault, manslaughter or murder.

(3) any violation which the laws, policies or procedures of the State of North Carolina dictate shall be handled otherwise.

(c) Upon failure to comply with the terms of a citation for violation of North Carolina hunting, fishing or trapping laws, the licensing agency shall send notice of license or permit suspension, via certified mail, return receipt requested, to the violator's last known address, and report to the home state in accordance with procedures specified in the compact manual.

(d) The following shall constitute the only valid methods of restoring license privileges in response to a notice of suspension of North Carolina license privileges for non-compliance.

(1) resolving the citation in person.

(2) submission of payment by a method acceptable to the North Carolina Court System where allowed.

(3) resolving through an attorney where allowed.

(e) Upon resolving the citation, the non-resident must notify the North Carolina licensing agency so that hunting, fishing or trapping privileges can be restored.

Authority GS 113-300.6, 113-300.7, 113-300.8, 113 Article 21

15A NCAC 10A.1404 WILDLIFE VIOLATOR COMPACT CONDITIONS FOR RESIDENTS

(a) North Carolina residents committing hunting, fishing, or trapping violations in another WVC member state, who upon release on personal recognizance from the issuing state, failed to resolve the violation, will have their hunting, fishing or trapping privileges suspended in North Carolina.

(b) If a North Carolina licensing agency receives notice of an unresolved violation, a Notice of Suspension will be prepared and sent to the violator.

(1) the notice shall have a delayed effective date of at least 14 days, to allow the violator to contact the court in the issuing state and resolve the case.

(2) the notice shall be delivered personally or by letter sent by certified mail, return receipt requested, to the last known address of the licensee or permit holder.

(3) the notice of suspension shall inform the violator of the facts supporting the suspension and procedures to be followed in resolving the matter with the court in the issuing state.

(4) the notice shall provide the procedure for appealing the suspension.

(c) Any suspensions received by a North Carolina licensing agency 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 present documents to the North Carolina licensing agency that acknowledge compliance. Upon receipt of acceptable documentation, an acknowledgement of compliance will be issued directly to that person by the licensing agency.

(e) The following are to be deemed sufficient evidence of compliance in response to a notice of suspension for non-compliance.

(1) copy of the court judgment.

(2) a copy of a Notice of Compliance from the issuing state.

(f) If the acknowledgement of compliance is presented after the effective date of the suspension, reinstatement will be handled in accordance with the laws, policies and procedures of North Carolina.

(1) any reinstatement or restoration fees shall be established and assessed in accordance with the laws, policies and procedures of North Carolina.

(g) Residents receiving a Notice of Suspension from the North Carolina licensing agency under the WVC provisions for failure to resolve a citation issued in another WVC member state may

file a petition with the Office of Administrative Hearings, within 60 days from the date of delivery by certified mail, return receipt requested, pursuant to G.S. § 150B-23.

(h) The issuing state will be notified if the suspension order is overturned by the Office of Administrative Hearings.

Authority GS 113-300.6, 113-300.7, 113-300.8, 113 Article 21

15A NCAC 10A.1405 RECIPROCAL RECOGNITION OF SUSPENSIONS

(a) When a North Carolina licensing agency receives notice of suspension of a North Carolina resident's hunting, fishing, or trapping privileges or licenses by a WVC member state, that are the result of a conviction or an accumulation of convictions of wildlife violations in one or more states which participate in the WVC, that agency shall determine whether the violation, or accumulation of violations, leading to the suspension could have led to the suspension of rights, privileges, or licenses under North Carolina law. If it is determined that the resident's privileges or licenses would have been suspended under North Carolina law, the resident's licenses, rights, and privileges to hunt, fish, or trap in North Carolina, shall be suspended pursuant to Article 22B of GS § 113 for the same period as imposed by the WVC member state where the violation occurred.

(b) North Carolina shall communicate suspension information to other member states, using the WVC database. Information may include but is not limited to: name, date of birth, physical description, and last known address, violation(s) and convictions upon which the suspension is based, the scope of the suspension (i.e., fishing, hunting, trapping, all privileges or rights), 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 member state for license suspension hearings or other purposes, North Carolina may provide certified copies of the citation or other charging instrument, any arrest or investigation reports, suspension orders and the disposition of the matter.

Authority GS 113-300.6, 113-300.7, 113-300.8, 113 Article 21, 150B-23

15A NCAC 10A.1406 APPEALS

(a) A final agency decision made by the North Carolina licensing agency to suspend any North Carolina hunting, fishing or trapping license pursuant to the WVC is appealable to the Office of Administrative Hearings pursuant to G.S. § 150B-23. Notice of the right to appeal shall be included in the correspondence notifying the licensee of the final agency decision.

Authority GS 113-300.6, 113-300.7, 150B-23