

MARINE FISHERIES OFFENSES FOR WHICH COURT APPEARANCE IS MANDATORY

(Adopted by the Conference of Chief District Court Judges, October 25, 1989
Pursuant to N.C. G.S. 7A-148.)

Effective January 1, 1990

Court appearance is mandatory for offenses charged under the following General Statutes:

1. G.S. 113-136. Refusal to obey or allow inspection by inspector.
2. G.S. 113-162. Fraud or deception relating to license or permit.
3. G.S. 113-167. Use of spotter plane in commercial operation.
4. G.S. 113-187(b). Owning vessel and knowingly permitting it to be used in violation of Article 15 or implementing regulations.
5. G.S. 113-187(c). Being in charge of a vessel used in violation, or of commercial fishing operation conducted in violation, of Article 15 or implementing regulations.
6. G.S. 113-187(d). Violation of statutes with mandatory penalty by person in charge of commercial fishing operation or of vessel used in violation.
7. G.S. 113-189. Disturbing sea turtle or porpoise.
8. G.S. 113-207. Clamming on posted oyster rocks.
9. G.S. 113-208. Interfering with private shellfish rights.
10. G.S. 113-209. Taking polluted shellfish at night.
11. G.S. 113-229. Failure to obtain dredging permit.
12. G.S. 113-230. Violation of order relating to coastal wetlands.
13. G.S. 113-262. Taking fish by poisons, drugs, etc.
14. G.S. 113-264. Destruction of property belonging to Department of Environment, Health and Natural Resources.
15. G.S. 113-265. Polluting hatchery water; throwing fish offal into water.
16. G.S. 113-266. Interference with artificial reef marking devices.
15. G.S. 113-268. Robbing or injuring nets, seines, buoys, pots, etc.
18. G.S. 113-269. Robbing or injuring hatcheries or aquaculture operations.

MARINE FISHERIES OFFENSES FOR WHICH COURT APPEARANCE MAY BE WAIVED

(on execution of written waiver of appearance and trial, and plea of guilty)

A. LICENSE VIOLATIONS

1. Commercial fishing without vessel license. [G.S. 113-152]..... \$20 and costs
2. Commercial fishing without oyster, scallop, clam license. [G.S. 113-154(a)]..... \$20 and costs
3. Dealing in fish without dealer's license. [G.S. 113-156] \$20 and costs
4. Taking oysters, scallops, or clams for commercial use without displaying license or having it ready at hand. [G.S. 113-154(b)] \$20 and costs

B. SIZE LIMITS

1. Possessing undersized oysters [15 NCAC 3B.1103(a), crabs [15 NCAC 3B.0801(b)(1)], stripped bass [15 NCAC 3B.1503(a)], spotted seatrout [15 NCAC 3B.0105(k)], flounder [15 NCAC 3B-0105(j)], or red drum [15 NCAC 3B.0105(g)(2)].
20% or less undersize..... \$20 and costs
More than 20% undersize..... \$40 and costs
2. Taking, purchasing, selling, or possessing undersize clams [15 NCAC 3B.0901(a)], or landing or possessing undersize sea scallops [15 NCAC 3B.1005].
20% or less undersize..... \$20 and costs
More than 20% undersize..... \$40 and costs

C. CREEL LIMITS

1. Possession of unlawful number of stripped bass.. [15 NCAC 3B.1503(b), 15A NCAC 3F.0107(1)(b)].
4-6 fish \$20 and costs
More than 6 fish \$40 and costs

2.	Taking more than legal limit of scallops [15 NCAC 3B.1002], oysters [15 NCAC 3B.1101], or clams [15 NCAC 3B.0901].	
	Exceeding limit by 20% or less	\$20 and costs
	Exceeding limit by more than 20%	\$40 and costs
3.	Possession of unlawful number of red drum over 32 inches. [15 NCAC 3B.0105(g)]	
	3-6 fish	\$20 and costs
	More than 6 fish	\$40 and costs
D. SHRIMP VIOLATIONS		
1.	Taking shrimp in closed area. [15 NCAC 3B.0702]	\$20 and costs
2.	Taking shrimp during weekend closure period. [15 NCAC 3B.0701(a)]	\$20 and costs
3.	Taking shrimp with net or seine with illegal mesh size. [15 NCAC 3B.0701(b)]	\$20 and costs
E. CRAB VIOLATIONS		
1.	Taking crab in closed area. [15 NCAC 3B.0801(a)]	\$20 and costs
2.	Taking crab with trawl with illegal mesh size. [15 NCAC 3B.0801(b)(2)]	\$20 and costs
3.	Taking crab by unlawful use of dredge. [15 NCAC 3B.0801(b)(6)]	\$20 and costs
4.	Using crab pot in non-designated area between 1 May and 1 November. [15 NCAC 3B.0504(a)]	\$20 and costs
5.	Failing to keep crab pot buoyed or identified. [15 NCAC 3B.0504(c)]	\$20 and costs
F. SHELLFISH VIOLATIONS		
1.	Taking oysters, clams or mussels from polluted waters. [15 NCAC 3B.1111]	\$20 and costs
2.	Taking or unloading clams. [15A NCAC 3B.0905] or oysters [15 NCAC 3B.1109] on Sunday or at night	\$20 and costs
3.	Taking oysters [15 NCAC 3B.1101] or scallops [15A NCAC 3B.1002] during closed season or days	\$20 and costs
4.	Taking clams by mechanical method in closed areas or during closed season. [15 NCAC 3B.0901]	\$20 and costs
5.	Possessing or transporting prohibited oyster equipment. [G.S. 113-184]	\$20 and costs
G. MISCELLANEOUS VIOLATIONS		
1.	Use or possess aboard a vessel, a channel net with corkline exceeding 40 years. [15 NCAC 3B.0307(a)(1) or 15A NCAC 3B.0307(g)]	\$20 and costs
2.	Setting any part of channel net within 50 feet of ICWW. [15 NCAC 3B.0307(a)(3)]	\$20 and costs
3.	Failing to attend channel net in coastal waters. [15 NCAC 3B.0307(a)(5)]	\$20 and costs
4.	Using prohibited gear in primary nursery area. [15 NCAC 3B.1404]	\$20 and costs
5.	Using gill net without buoys or identification. [15 NCAC 3B-0304(5)(a)]	\$20 and costs
6.	Unlawful possession, transportation, or sale of fish. [G.S. 113-183]	\$20 and costs
7.	Fishing near ocean pier. [G.S. 113-185(a)]	\$20 and costs
8.	Trash or scrap fishing. [G.S. 113-185(b)]	\$20 and costs
H.	Committing any offense charged under G.S. 113-135 through –203 not on the mandatory appearance list.	\$20 and costs
I.	Committing any other violation of Marine Fisheries Commission regulations not punishable under G.S. 113-187(b)-(d)	\$20 and costs

OTHER POLICIES RELATING TO WAIVABLE MARINE FISHERIES OFFENSES:

1. G.S. 7 A-148 provides that the Chief District Judges shall prepare a "uniform schedule" of waivable fishing. offenses under G.S. Chapter 113 and waivable boating offenses under G.S. Chapter 75A and shall otherwise promote the "uniform administration of justice." In accordance with the statutory mandate, all judicial districts will adhere to the schedule provided herein and individual judicial district policies deviating from this schedule are prohibited.
2. When two charges are made on a citation, the defendant shall be fined only for the offense carrying the highest fine, and only one bill of costs will be assessed.
3. When a defendant is charged on the same citation with an offense waivable under this schedule and one that is not waivable, the defendant must appear in court to answer both the waivable and the nonwaivable charge.
4. Marine fisheries offenses are not waivable if: (1) a previous conviction of the Marine Fisheries laws within the last three years is alleged so as to make the offense punishable under G.S. 113-135(a)(2); (2) fish have been seized and will be sold, or vessels or equipment have been seized; or (3) the offense with which defendant is charged is listed on the mandatory appearance list.