

MARINE FISHERIES OFFENSES FOR WHICH COURT APPEARANCE IS MANDATORY

(Adopted by the Conference of Chief District Court Judges, October 3, 1996 pursuant to N.C. G.S. 7A-148.)

Effective January 1, 1997

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 Subchapter IV or implementing rules.
5. G.S. 113-187(c). Being in charge of a vessel used in violation, or of commercial fishing operation conducted in violation, of Subchapter IV or implementing rules.
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 in Subchapter IV.
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.
19. G.S. 113-156. Dealing in fish without dealer's license.
20. G.S. 113-154.1. Selling fish without an endorsement to sell.

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] \$25 and costs
2. Commercial fishing without shellfish and crabs license. [G.S. 113-154(a); 113-153.1(a)] \$25 and costs
3. Taking shellfish and crabs for commercial use without displaying license or having it ready at hand. [G.S. 113-154(b); 113-153.1(B)] \$25 and costs

B. SIZE LIMITS

1. Possession of undersized oysters [15A NCAC 3K .0202(a)], crabs [15A NCAC 3L .0201], striped bass [15A NCAC 3M .0202, or .0204], spotted sea trout [15A NCAC 3M .0504], flounder [15A NCAC 3M .0503], or red drum [15A NCAC 3M .0501(b)].
20% or less undersize \$25 and costs
More than 20% undersize..... \$50 and costs
2. Taking, purchasing, selling, or possessing undersize clams [15A NCAC 3K .0301(a)], or landing or possessing undersize sea scallops [15A NCAC 3K .0505].
20% or less undersize \$25 and costs
More than 20% undersize..... \$50 and costs

C. CREEL LIMITS

1. Possession of unlawful number of striped bass. [15A NCAC 3M .0202, .0203(b) or .0204(b)].
6 fish or less \$25 and costs
More than 6 fish..... \$50 and costs

2. Taking more than legal limit of scallops [15A NCAC 3K .0501 or .0105], oysters [15A NCAC 3K .0201 or .0202(c)], or clams [15A NCAC 3K .0301(a) or .0302(a)].	
Exceeding limit by 20% or less	\$25 and costs
Exceeding limit by more than 20%	\$50 and costs
3. Possession of unlawful number of red drum [15A NCAC 3M .0501(a)(3)].	
6 fish or less	\$25 and costs
More than 6 fish	\$50 and costs
D. SHRIMP VIOLATIONS	
1. Taking shrimp in closed area. [15A NCAC 3L .0101]	\$25 and costs
2. Taking shrimp during weekend closure period. [15A NCAC 3L .0102]	\$25 and costs
3. Taking shrimp with net with illegal mesh size. [15A NCAC 3L .0103]	\$25 and costs
E. CRAB VIOLATIONS	
1. Taking crabs in closed area. [15A NCAC 3L .0202, .0203, .0204 or .0205]	\$25 and costs
2. Taking crabs with trawl with illegal mesh size. [15A NCAC 3L .0202(b), (c)]	\$25 and costs
3. Failing to keep crab pot buoyed or identified [15A NCAC 3J .0301(c)]	\$25 and costs
F. SHELLFISH VIOLATIONS	
1. Taking oysters, clams or mussels from polluted waters. [15A NCAC 3K .0101]	\$25 and costs
2. Taking or unloading oysters or clams on Sunday or at night. [15A NCAC 3K .0106]	\$25 and costs
3. Taking oysters [15A NCAC 3K .0201] or scallops [15A NCAC 3K .0501] during closed season or days	\$25 and costs
4. Taking clams by mechanical method in closed areas or during closed season. [15A NCAC 3K .0302]	\$25 and costs
5. Possessing or transporting prohibited oyster equipment. [G.S. 113-184]	\$25 and costs
G. MISCELLANEOUS VIOLATIONS	
1. Use or possess aboard a vessel, a channel net with corkline exceeding 40 yards. [15A NCAC 3J .0106(b)]	\$25 and costs
2. Setting any part of channel net within 50 feet of ICWW. [15A NCAC 3J .0106(a)(3)]	\$25 and costs
3. Failing to attend channel net in coastal waters. [15A NCAC 3J .0106(a)(5)]	\$25 and costs
4. Using prohibited gear in primary nursery area. [15A NCAC 3N .0004]	\$25 and costs
5. Using gill net without lawful identification. [15A NCAC 3J .0103(a)]	\$25 and costs
6. Unlawful possession, transportation, or sale of fish. [G.S. 113-183]	\$25 and costs
7. Fishing near ocean pier. [G.S. 113-185(a)]	\$25 and costs
8. Trash or scrap fishing. [G.S. 113-185(b)]	\$25 and costs
H. COMMITTING ANY OFFENSE CHARGED UNDER G.S. 113-135 through -203	
not on the mandatory appearance list	\$25 and costs
I. COMMITTING ANY OTHER VIOLATION OF MARINE FISHERIES COMMISSION	
regulations not punishable under G.S. 113-187(b)-(d)	\$25 and costs
J. LITTERING UNDER G.S. 14-399(c) ONLY	
	\$100 and costs

OTHER POLICIES RELATING TO WAIVABLE MARINE FISHERIES OFFENSES:

- 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.
- 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.
- When a defendant is charged on the same citation with an offense waivable under this schedule an offense not waivable, the defendant must appear in court to answer both the waivable and the non-waivable charge.
- 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.
- This schedule does not apply if, based on the facts of the case, replacement costs may be assessed against the defendant if he is determined to be guilty.