

# MARINE FISHERIES OFFENSES FOR WHICH COURT APPEARANCE IS MANDATORY

(Adopted by the Conference of Chief District Court Judges, October 1, 1998 pursuant to N.C. G.S. 7A-148.)

## Applies To Offenses Committed On Or After December 1, 1999

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

1. G.S. 113-135(a)(2). Second violation within three years.
2. G.S. 113-136. Refusal to obey or allow inspection by inspector.
3. G.S. 113-168.4. Selling or transferring fish without valid licenses described in G.S. 113-168.4.
4. G.S. 113-169.3. Dealing in fish without dealer's license.
5. G.S. 113-170.2. Fraud or deception relating to license or permit.
6. G.S. 113-171.1. Use of spotter plane in commercial operation.
7. G.S. 113-183. Disturbing sea turtle or porpoise.
8. G.S. 113-187. Engaged or in charge of commercial fishing operation in violation of Subchapter IV or implementing rules.
9. G.S. 113-189. Disturbing sea turtle or porpoise.
10. G.S. 113-191. Unlawful sale or purchase of fish.
11. G.S. 113-208. Interfering with private shellfish rights.
12. G.S. 113-209. Taking polluted shellfish at night.
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. NCAC 3M .0404. Failure to report fish spill.

## 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. Fishing without having ready at hand for inspection licenses, assignments, or endorsements, or refusing to exhibit same. [G.S. 113-168.1]..... \$ 25 and Costs
2. Commercial fishing without standard or retired standard commercial fishing license. [G.S. 113-168.2; 113-168.3] ..... \$ 25 and Costs
3. Exceed personal use shellfish limit or take shellfish with mechanical means without license. [G.S. 113-169.2] ..... \$ 25 and Costs
4. Recreational fishing with commercial fishing equipment without recreational commercial gear license. [G.S. 113-173] ..... \$ 25 and Costs
5. Commercial fishing without commercial fishing vessel registration. [G.S. 113-186.6] ..... \$ 25 and Costs

### B. SIZE LIMITS

- Size limit violations for undersized oysters [15A NCAC 3K .0202], clams [15A NCAC 3K .0301], Crabs [15A NCAC 3L .0201], or finfish [15A NCAC 3M .0500].
- 20% or less undersize..... \$ 25 and Costs
- More than 20% undersize ..... \$ 50 and Costs

### C. CREEL LIMITS

1. Possession of more than legal limit of shellfish under 15A NCAC 3K .0100- .0500.  
Exceeding limit by 20% or less..... \$ 25 and Costs  
Exceeding limit by more than 20%..... \$ 50 and costs

(Over)

2. Possession of more than legal limit of finfish under 15A NCAC 3M .0500	
Exceeding limit by 50% or less.....	\$25 and Costs
Exceeding limit by more than 50%.....	\$50 and Costs
<b>D. TRAWLING VIOLATIONS</b>	
1. Trawling in closed area for persons not in charge. [15A NCAC 3L .0101, 0202; G.S. 113-135(a)(1)].....	\$50 and Costs
2. Use trawl net during weekend closure period for persons not in charge [15A NCAC 3J .0104].....	\$50 and Costs
<b>E. CRAB VIOLATIONS</b>	
1. Taking crab in closed area. [15A NCAC 3L .0202, .0203 or .0205].....	\$25 and Costs
2. Using pots in non-designated area or during closed season. [15A NCAC 3J .0301].....	\$25 and Costs
<b>F. SHELLFISH VIOLATIONS</b>	
1. Taking oysters, clams or mussels from temporarily closed polluted waters. [15A NCAC 3K .0101; G.S. 113-135(a)(1)].....	\$50 and Costs
2. Possess oysters, clams or mussels without harvest tag. [15A NCAC 3K .0101].....	\$25 and Costs
3. Taking or unloading oysters or clams on Sunday or at night. [15A NCAC 3K .0106].....	\$25 or Costs
4. Taking oysters [15A NCAC 3K 10201] or scallops [15A NCAC 3K .0501] during closes season or days .....	\$25 and Costs
5. Taking clams by mechanical method in closed areas or during closed season, for person not in charge. [15A NCAC 3K .0302; G.S. 113-135(1)(1)].....	\$50 and Costs
<b>G. MISCELLANEOUS VIOLATIONS</b>	
1. Leave pots or gill nets unattended. [15A NCAC 3I .0105].....	\$25 and Costs
2. Improper use of gill nets in ICWW channel. [15A NCAC 3J .0103].....	\$25 and Costs
3. Possess finfish without having head and tail attached. [15A NCAC 3M .0101].....	\$25 and Costs
4. Using gill nets without proper buoy or identification. [15A NCAC 3J .0103].....	\$25 and Costs
5. Using pots without proper buoy or identification. [15A NCAC 3J .0101].....	\$25 and Costs
6. Using prohibited gear in primary nursery area for persons not in charge. [15A NCAC 3N .0104; G.S. 113-135(a)(1)].....	\$50 and Costs
7. Failure to properly complete trip tickets or turn in by deadline. [15A NCAC 3I .0114].....	\$50 and Costs
8. Possess Nassau grouper, jewfish or sturgeon. [15A NCAC 3M .0506, .0508].....	\$150 and Costs
<b>H. COMMITTING ANY OFFENSE CHARGERD UNDER G.S. 113-135 through -203</b>	
not on the mandatory appearance list.....	\$25 and Costs
<b>I. COMMITTING ANY OTHER VIOLATION OF MARINE FISHERIES COMMISSION</b>	
regulations not punishable under G.S. 113-187(b)-(d).....	\$25 and Costs
<b>J. LITTERING UNDER G.S. 14-399(c) ONLY.....</b>	
	\$250 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 with an offense non-waivable, under this schedule the defendant must appear in court to answer both the waivable and the non-waivable 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; or (4) replacement costs may be assessed against the defendant if he/she is determined to be guilty.
5. This schedule does not apply to littering charges under G.S. 14-399(c) if the defendant is charged with a second offense under that subsection.