

MARINE FISHERIES OFFENSES FOR WHICH COURT APPEARANCE IS MANDATORY

(Adopted by the Conference of Chief District Court Judges, October 12, 2022, pursuant to G.S. 7A-148)

Applies To Offenses Committed On Or After December 1, 2022

Court appearance is mandatory for offenses charged under the following:

1. G.S. 113-135(a)(2). Second conviction 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. Unlawful possession, transportation, or sale of fish.
8. G.S. 113-187. Participate in, or be in charge of commercial fishing operation, or be in charge of any vessel, or an owner of any vessel who knowingly permits the vessel to be used in violation of Subchapter IV of G.S. Ch. 113 or its implementing rules.
9. G.S. 113-189. Disturbing protected species.
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. 113-210. Sale of oysters cultivated pursuant to an Under Dock Oyster Culture Permit.
14. G.S. 113-218. Taking marine species produced under aquaculture lease without written authorization of holder.
15. G.S. 113-262. Taking fish by poisons, drugs, etc.
16. G.S. 113-264. Destruction of property belonging to Department of Environmental Quality.
17. G.S. 113-265. Polluting hatchery water; throwing fish offal into water.
18. G.S. 113-266. Interference with artificial reef marking devices.
19. G.S. 113-268. Robbing or injuring nets, seines, buoys, pots, etc.
20. G.S. 113-269. Robbing or injuring hatcheries or aquaculture operations.
21. 15A NCAC 3J .0105(d). Failure to report fish spill.

OTHER POLICIES RELATING TO MARINE FISHERIES OFFENSES:

1. G.S. 7A-148 provides that the Conference of Chief District Court Judges shall prepare a "uniform schedule" of waivable fishing offenses under G.S. Chapter 113 and shall otherwise promote the "uniform administration of justice." In accordance with this statutory mandate, all judicial districts must adhere to this schedule, and individual judicial district policies deviating from this schedule are prohibited.
2. Where more than one charge is made on a criminal process or pleading, the defendant shall be fined only for the offense carrying the highest fine. Only one bill of costs will be assessed.
3. When a defendant is charged on the same criminal process or pleading with an offense(s) waivable under this schedule and an offense(s) that is not waivable, the defendant must appear in court to answer the waivable and non-waivable charges.
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; (3) the offense with which defendant is charged is listed on the mandatory appearance list; or (4) replacement or disposition 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) or (c1), if the defendant is charged with a second offense under the subsection.
6. When a defendant is charged with multiple offenses arising out of the same event or transaction, only one criminal process or pleading should be used to the greatest extent possible given the limits of the electronic or paper pleadings provided by the North Carolina Administrative Office of the Courts.