

N.C.P.I.—Criminal 258.36
POSSESSION OF SIGNS POSTED BY DEPARTMENT OF ENVIRONMENT AND
NATURAL RESOURCES—WATER QUALITY IN COASTAL RECREATION
WATERS. MISDEMEANOR.
GENERAL CRIMINAL VOLUME
JUNE 2012
G.S. 113-221.3 (b), (c), (d)

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The defendant has been charged with the possession of a sign posted by the Department of Environment and Natural Resources, in violation of the rules¹ established by the Marine Fisheries Commission regarding a water quality monitoring program² for State coastal fishing and recreation waters.³ For you to find the defendant guilty of this offense, the State must prove two things beyond a reasonable doubt:

1 G.S. 113-221.3 (b) states "The Marine Fisheries Commission shall adopt rules to provide for a water quality monitoring program for the coastal recreation waters of the State and to allow the Department to implement the federal Beaches Environmental Assessment and Coastal Health Act of 2000 (Pub. L. No. 106-284; 114 Stat. 870, 875; 33 U.S.C. § 1313, 1362). The rules shall address, but are not limited to, definitions, surveys, sampling, action standards, and posting of information on the water quality of coastal recreational waters."

2 G.S. 113-221.3 (a) states "for the protection of the public health of swimmers and others who use the State's coastal fishing waters for recreational activities, the Department shall develop and implement a program to monitor the State's coastal fishing waters for contaminants. The monitoring program shall cover all coastal fishing waters up to the point where those waters are classified as inland fishing waters."

3 33 U.S.C. § 1362 states "In general. The term "coastal recreation waters" means— (i) the Great Lakes; and (ii) marine coastal waters (including coastal estuaries) that are designated under section 303(c) [33 USCS § 1313(c)] by a State for use for swimming, bathing, surfing, or similar water contact activities. The term "coastal recreation waters" does not include--(i) inland waters; or (ii) waters upstream of the mouth of a river or stream having an unimpaired natural connection with the open sea."

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First, that the defendant without just cause or excuse possessed any sign posted by the Department of Environment and Natural Resources⁴;

And Second, that the sign was related to the rules established by the Marine Fisheries Commission for the water quality monitoring program.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant without just cause or excuse possessed any sign posted by the Department of Environment and Natural Resources related to the rules established by the Marine Fisheries Commission for the water quality monitoring program, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, then it would be your duty to return a verdict of not guilty.

⁴ See G.S. 113-221.3 (b), (c), (d).