

Article 17.

Administrative Provisions; Regulatory Authority of Marine Fisheries Commission and Department.

§ 113-221. Rules.

(a) Chapter 150B of the General Statutes governs the adoption of rules under this Article.

(b) Upon purchasing a license, each licensee shall be provided access to a copy of the rules concerning the activities authorized by the license. The copy may be in written or electronic form, including by file download over the Internet. A written copy of the rules shall be provided to a licensee upon request.

(c) The Fisheries Director shall notify licensees of a new rule or change to a rule by sending each licensee either a newsletter containing the text of the rule or change or an updated codification of the rules of the Marine Fisheries Commission that contains the new rule or change. The Director may elect to use electronic means rather than mail to notify licensees if electronic means would be more timely and cost-effective. A written copy of any notification produced in accordance with this section shall be provided to a licensee upon request.

(d) Unless there are overriding policy considerations involved, any rule of the Marine Fisheries Commission that will result in severe curtailment of the usefulness or value of equipment in which fishermen have any substantial investment shall be given a future effective date so as to minimize undue potential economic loss to fishermen. Whether or not any rule will result in severe curtailment of the usefulness or value of equipment in which fishermen have any substantial investment and whether or not a future effective date should be set is a matter within the sole discretion of the Marine Fisheries Commission. This subsection does not require the Marine Fisheries Commission to establish an effective date that is more than two years later than the date on which the rule is adopted.

(e) Repealed by Session Laws 2003-154, s. 1, effective July 1, 2003.

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(f) All persons who may be affected by rules adopted by the Marine Fisheries Commission are under a duty to keep themselves informed of the current rules. It is no defense in any criminal prosecution for the defendant to show that the defendant in fact received no notice of a particular rule. In any prosecution for violation of a rule, or in which proof of matter contained in a rule is involved, the Department is deemed to have complied with publication procedures and the burden is on the defendant to show by the greater weight of the evidence substantial failure of compliance by the Department with the required publication procedures.

(g) Every court shall take judicial notice of any codification of rules issued by the Fisheries Director within two years preceding the date of the offense charged or transaction in issue. In the absence of any indication to the contrary, the codifications are to be deemed accurate and current statements of the text of the rules in question and it is incumbent upon any person asserting that a relevant portion of the codified text is inaccurate, or has been amended or deleted, to satisfy the court as to the text of the rules that is in fact properly applicable.

(h) Repealed by Session Laws 1983, c. 221, s. 1. (1915, c. 84, s. 21; 1917, c. 290, s. 7; C.S., s. 1878; 1925, c. 168, s. 2; 1935, c. 35; 1945, c. 776; 1953, cc. 774, 1134, 1251; 1963, c. 1097, s. 1; 1965, c. 957, s. 2; 1973, c. 1262, ss. 28, 86; c. 1331, s. 3; 1975, 2nd Sess., c. 983, s. 70; 1979, c. 388, s. 6; 1983, cc. 221, 619, 620; 1987, c. 641, ss. 7, 19; c. 827, s. 7; 1997-400, s. 4.3; 1998-225, s. 3.8; 2000-189, s. 9; 2003-154, s. 1; 2014-100, s. 14.13.)