

§ 113-171. Suspension, revocation, and reissuance of licenses.

(a) Upon receipt of reliable notice that a person licensed under this Article, Article 14B, or Article 25A of Chapter 113 of the General Statutes to take resources under the jurisdiction of the Marine Fisheries Commission has had imposed against the person a conviction of a criminal offense within the jurisdiction of the Department under the provisions of this Subchapter or of rules of the Commission adopted under the authority of this Subchapter, the Secretary must suspend, revoke, and reissue all licenses held by the person in accordance with the terms of this section and rules adopted by the Commission. Reliable notice includes information furnished the Secretary in prosecution or other reports from inspectors. As used in this section, a conviction includes a plea of guilty or nolo contendere, any other termination of a criminal prosecution unfavorably to the defendant after jeopardy has attached, or any substitute for criminal prosecution whereby the defendant expressly or impliedly confesses the defendant's guilt. In particular, procedures whereby bond forfeitures are accepted in lieu of proceeding to trial and cases indefinitely continued upon arrest of judgment or prayer for judgment continued are deemed convictions. The Secretary may act to suspend or revoke licenses upon the basis of any conviction in which:

- (1) No notice of appeal has been given;
- (2) The time for appeal has expired without an appeal having been perfected; or
- (3) The conviction is sustained on appeal. Where there is a new trial, finality of any subsequent conviction will be determined in the manner set out above.

(b) The Secretary must initiate an administrative procedure designed to give the Secretary systematic notice of all convictions of criminal offenses by licensees covered by subsection (a) of this section above and keep a file of all convictions reported.

(c), (d) Repealed by Session Laws 2010-145, s. 2, effective October 1, 2012.

(e) A licensee served with a notice of suspension or revocation may obtain an administrative review of the suspension or revocation by filing a petition for a contested case under G.S. 150B-23 within 20 days after receiving the notice. The only issue in the hearing shall be whether the licensee was convicted of a criminal offense for which a license must be suspended or revoked. A license remains suspended or revoked pending the final decision.

(f) If the Secretary refuses to reissue the license of or issue an additional license to an applicant whose license was revoked, the applicant may contest the decision by filing a petition for a contested case under G.S. 150B-23 within 20 days after the Secretary makes the decision. The Commission shall make the final agency decision in a contested case under this subsection. An applicant whose license is denied under this subsection may not reapply for the same license for at least six months.

(g) The Commission may adopt rules to provide for the disclosure of the identity of any individual or individuals in responsible positions of control respecting operations of any licensee that is not an individual. For the purposes of this section, individuals in responsible positions of control are deemed to be individual licensees and subject to suspension and revocation requirements in regard to any applications for license they may make – either as individuals or as persons in responsible positions of control in any corporation, partnership, or association. In the case of individual licensees, the individual applying for a license or licensed under this Article, Article 14B, or Article 25A of Chapter 113 of the General Statutes to take resources under the jurisdiction of the Marine Fisheries Commission must be the real party in interest.

(h) In determining whether a conviction is a second or subsequent offense under the provisions of this section, the Secretary may not consider convictions for:

- (1) Offenses that occurred three years prior to the effective date of this Article; or

- (2) Offenses that occurred more than three years prior to the time of the latest offense the conviction for which is in issue as a subsequent conviction. (1997-400, s. 5.1; 2001-213, s. 2; 2010-145, s. 2; 2011-398, s. 34.)