



CHAPTER 113
ARTICLE 17 - ADMINISTRATIVE PROVISIONS; REGULATORY AUTHORITY OF MARINE FISHERIES COMMISSION AND DEPARTMENT

N.C.G.S. § 113-221.1.

Proclamations; emergency review.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 2003-154, s. 2 — twentieth act in the lineage	21 September 2026, 03:01 UTC	b5155e28241a28755d1f0494 - 5262d30911bce624a7665522 - 09781a18ab6369b6

§ 113-221.1(a) Chapter 150B of the General Statutes does not apply to proclamations issued under this Article.

§ 113-221.1(b) The Marine Fisheries Commission may delegate to the Fisheries Director the authority to issue proclamations suspending or implementing, in whole or in part, particular rules of the Commission that may be affected by variable conditions. These proclamations shall be issued by the Fisheries Director or by a person designated by the Fisheries Director. Except as provided in this subsection, all proclamations shall state the hour and date upon which they become effective and shall be issued at least 48 hours in advance of the effective date and time. A proclamation that prohibits the taking of certain fisheries resources for reasons of public health or that governs a quota-managed fishery may be made effective immediately upon issuance. A proclamation to reopen the taking of certain fisheries resources closed for reasons of public health shall be issued at least 12 hours in advance of the effective date and time of the reopening. A person who violates a proclamation that is made effective immediately upon issuance shall not be charged with a criminal offense for the violation if the violation occurred between the time of issuance and 48 hours after the issuance and the person did not have actual notice of the issuance of the proclamation. Fisheries resources taken or possessed by any person in violation of any proclamation may be seized regardless of whether the person had actual notice of the proclamation. A permanent file of the text of all proclamations shall be maintained in the office of the Fisheries Director. Certified copies of proclamations are entitled to judicial notice in any civil or criminal proceeding. The Fisheries Director shall make every reasonable effort to give actual notice of the terms of any proclamation to persons

who may be affected by the proclamation. Reasonable effort includes a press release to communications media, posting of a notice at docks and other places where persons affected may gather, personal communication by inspectors and other agents of the Fisheries Director, and other measures designed to reach the persons who may be affected. It is a defense to an enforcement action for a violation of a proclamation that a person was prevented from receiving notice of the proclamation due to a natural disaster or other act of God occasioned exclusively by violence of nature without interference of any human agency and that could not have been prevented or avoided by the exercise of due care or foresight.

§ 113-221.1(c)

All persons who may be affected by proclamations issued by the Fisheries Director are under a duty to keep themselves informed of current proclamations. It is no defense in any criminal prosecution for the defendant to show that the defendant in fact received no notice of a particular proclamation. In any prosecution for violation of a proclamation, or in which proof of matter contained in a proclamation 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.

§ 113-221.1(d)

Pursuant to the request of five or more members of the Marine Fisheries Commission, the Chair of the Marine Fisheries Commission may call an emergency meeting of the Commission to review an issuance or proposed issuance of proclamations under the authority delegated to the Fisheries Director pursuant to subsection (b) of this section or to review the desirability of directing the Fisheries Director to issue a proclamation to prohibit or allow the taking of certain fisheries resources. At least 48 hours prior to any emergency meeting called pursuant to this subsection, a public announcement of the meeting shall be issued that describes the action requested by the members of the Marine Fisheries Commission. The Department shall make every reasonable effort to give actual notice of the meeting to persons who may be affected. After its review is complete, the Marine Fisheries Commission, consistent with its duty to protect, preserve, and enhance the commercial and sports fisheries resources of the State, may approve, cancel, or modify the previously issued or proposed proclamation under review or may direct the Fisheries Director to issue a proclamation that prohibits or allows the taking of certain fisheries resources. An emergency meeting called pursuant to this subsection and any resulting orders issued by the Marine Fisheries Commission are exempt from the provisions of Article 2A of Chapter 150B of the General Statutes. The decisions of the Marine Fisheries Commission shall be the final decision of the

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

Amendment lineage

1915 1959 2003

TICK HEIGHT = ACTS IN THAT YEAR DASHED = RECODIFICATION, NOT AMENDMENT

Nº	YEAR	ACT	CHARACTER
01	1915	c. 84, s. 21	ENACTED
02	1917	c. 290, s. 7	AMENDED
03	C.S.	s. 1878	RECODIFIED
04	1925	c. 168, s. 2	AMENDED
05	1935	c. 35	AMENDED
06	1945	c. 776	AMENDED
07	1953	cc. 774, 1134, 1251	AMENDED
08	1963	c. 1097, s. 1	AMENDED
09	1965	c. 957, s. 2	AMENDED
10	1973	c. 1262, ss. 28, 86	AMENDED
11	1973	c. 1331, s. 3	AMENDED
12	1975	2nd Sess., c. 983, s. 70	AMENDED
13	1979	c. 388, s. 6	AMENDED
14	1983	cc. 221, 619, 620	AMENDED
15	1987	c. 641, ss. 7, 19	AMENDED
16	1987	c. 827, s. 7	AMENDED
17	1997	S.L. 1997-400, s. 4.3	AMENDED
18	1998	S.L. 1998-225, s. 3.8	AMENDED
19	2000	S.L. 2000-189, s. 9	AMENDED

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 113-221.1 (2003).

PINPOINT

N.C. Gen. Stat. § 113-221.1(a) (2003).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

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HISTORY PARENTHETICAL, AS PRINTED BY THE STATE

(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. 2.)

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