

Cape Cod Fisheries Trust

# Infractions Policy

The Cape Cod Fisheries Trust has created an infractions procedure to help ensure that all program participants comply with the rules of the program and are treated fairly.

## Submission

Alleged infractions may be submitted by staff, program participants or community members. Any alleged infractions should be sent in writing or emailed to:

Cape Cod Fisheries Trust  
c/o Community Development Partnership  
Attn: Business & Credit Programs Manager  
3 Main Street Mercantile, Unit 7  
Eastham, MA 02642  
pam@capecdp.org

*In reality, all infractions so far have been found by staff during the application and leasing process. However, it's important to have a procedure in place if fishermen come to staff claiming fellow program participants are "cheating." Our response is, "Put it in writing and we'll look into it."*

Submissions should include name and contact number of individual filing the infraction, date of the alleged infraction and details of the alleged infraction. Infractions may include:

- Fisheries regulatory violation
- Lease hold or eligibility criteria violation
- State, town and harbor regulatory non-compliance

## Review

A panel of up to 5 fishermen will review the infraction. Panel members will include 1 scallop lessee, who is an elected leader of the scallop fishermen group, and may also include up to 2 scallop lessees chosen by random draw and up to 2 other industry members of CCCFA in good standing. A member of the Community Development Partnership (CDP) Business and Credit Committee may attend panel meeting as an observer. Program staff will also be in attendance.

*It's important to find the right balance of panel members so that the fishermen will view the results as fair.*

The panel will review written documentation regarding the infraction from staff, concerned fishermen, and/or other involved parties as deemed appropriate. The panel will determine if an infraction did occur and make a recommendation to the Business & Credit Committee for action.

## Penalties

Based on the severity of the infraction, a schedule of potential penalties is listed below. The Business & Credit Committee will make the final determination on the appropriate penalty for the infraction.

*This is important to avoid conflict of interest.*

Infraction	Penalty
Failure to catch CCFT quota (1st infraction)	Allocation in subsequent fishing year reduced by amount not caught.
Failure to catch CCFT quota (2nd infraction)	Allocation in subsequent fishing year reduced to amount caught.
Failure to meet owner-operator requirements as a red box participant.	Captain must meet program requirements (including meeting attendance) in subsequent fishing year. Participant must submit plan for percent of trips on-board for subsequent fishing year.
Sub-leasing	Reimburse sub-lessee (if sub-lessee is a member of the scallop program) or CCFT for the amount over the CCFT price violator was paid

*This penalty schedule is a new addition to the policy as of 2015. Be aware that, if you include a penalty schedule in your first infraction policy, you may find the penalties to be unrealistic. For instance, our infraction policy at first emphasized the penalty of complete removal from the program. However, after our first few years of infractions, we decided that such a penalty was too harsh.*

### Process and Notification

- Infraction notice will be date stamped when received by the CDP. Alternatively, staff will identify a leasehold infraction during the application process for the subsequent year and will notify the fisherman of his violation.
- CDP Staff will inform Director of CCFT, Executive Directors of CCCFA and CDP that an alleged infraction has been received and will contact elected leaders of scallop fisherman group.
- CCCFA will work with CDP to convene the infractions panel. Panel members will include CCCFA members in good standing: 1 elected leader of the scallop fishermen group (who has no involvement in the infraction), up to 2 scallop lessees, and up to 2 CCCFA industry members in good standing.
- CDP Staff will contact fishermen accused of violation with formal letter stating allegations and request a written statement from fisherman regarding the alleged infraction. Staff will be available to assist fishermen with written statements. Staff will make written statements available to the panel at the infractions meeting.
- CDP Staff will select location, date and time of panel meeting.
- If there are questions or additional research requested by the panel in order to make a recommendation, the panel will enlist assistance from staff to provide necessary information. If necessary there may be a postponement and adjournment within 7 days.
- Following the meeting, the panel will submit written recommendation to the CDP’s Business and Credit Committee via CDP Staff.
- CDP Business & Credit Committee will meet and make a decision within 4 weeks of receipt of recommendation of the panel.
- All concerned parties will be notified of the result of the infractions process via phone and in writing within 3 business days of Business and Credit Committee’s decision.
- Staff will strive to keep the identity of the accused fishermen as confidential as possible.

*Notification can be tricky—especially when staff learns of infractions during a busy fishing week.*

*It is important (but sometimes difficult) to make sure panel members have no involvement in the infraction and aren’t family members of the accused fisherman.*

*Attachments: Eligibility criteria included as a reference to leasehold terms of compliance.*

*At first, we committed unequivocally to confidentiality. But it’s almost impossible to keep the identity of the accused a secret in a small community where everyone knows what everyone else is doing.*