



CONSTRUCTIVE NOTICE

Written By Unknown Author

Proof of Knowledge/Notice. In most of the cases the Hearing Office decides, there is an alleged violation of a statute or regulation of which all persons subject to our jurisdiction are deemed to have knowledge. This presumed knowledge is referred to as —constructive notice.¶ Because the applicable statutes and regulations are matters of public record, as a matter of law, persons are deemed to have knowledge of them, whether or not they actually possess such knowledge. There are some regulations and orders that the Coast Guard enforces which are not considered matters of public record because they are triggered by an exercise of judgment or discretion of a Coast Guard officer in a particular situation. When —constructive notice¶ is not available to establish knowledge of the law or another required fact, the Coast Guard must provide evidence of actual knowledge of the law or fact. The best evidence of actual knowledge is direct evidence such as an admission from the charged party that he or she had knowledge of the order to be enforced, or a statement that the order was physically delivered to the charged party in person, either orally or in writing. However, circumstantial evidence might also be sufficient to prove actual knowledge. Further discussion of the difference between direct and circumstantial evidence is beyond the scope of this —KNOT,¶ but if you have questions about it in a particular case, you should seek legal advice.