

# Oyster Advisory Commission Enforcement Subcommittee

Progress Report October 23, 2013

Chairperson: Evan Thalenberg

Committee members: Don Webster, Don Meritt,  
Bill Goldsborough

# From the Charter of the OAC the subcommittee was charged as follows:

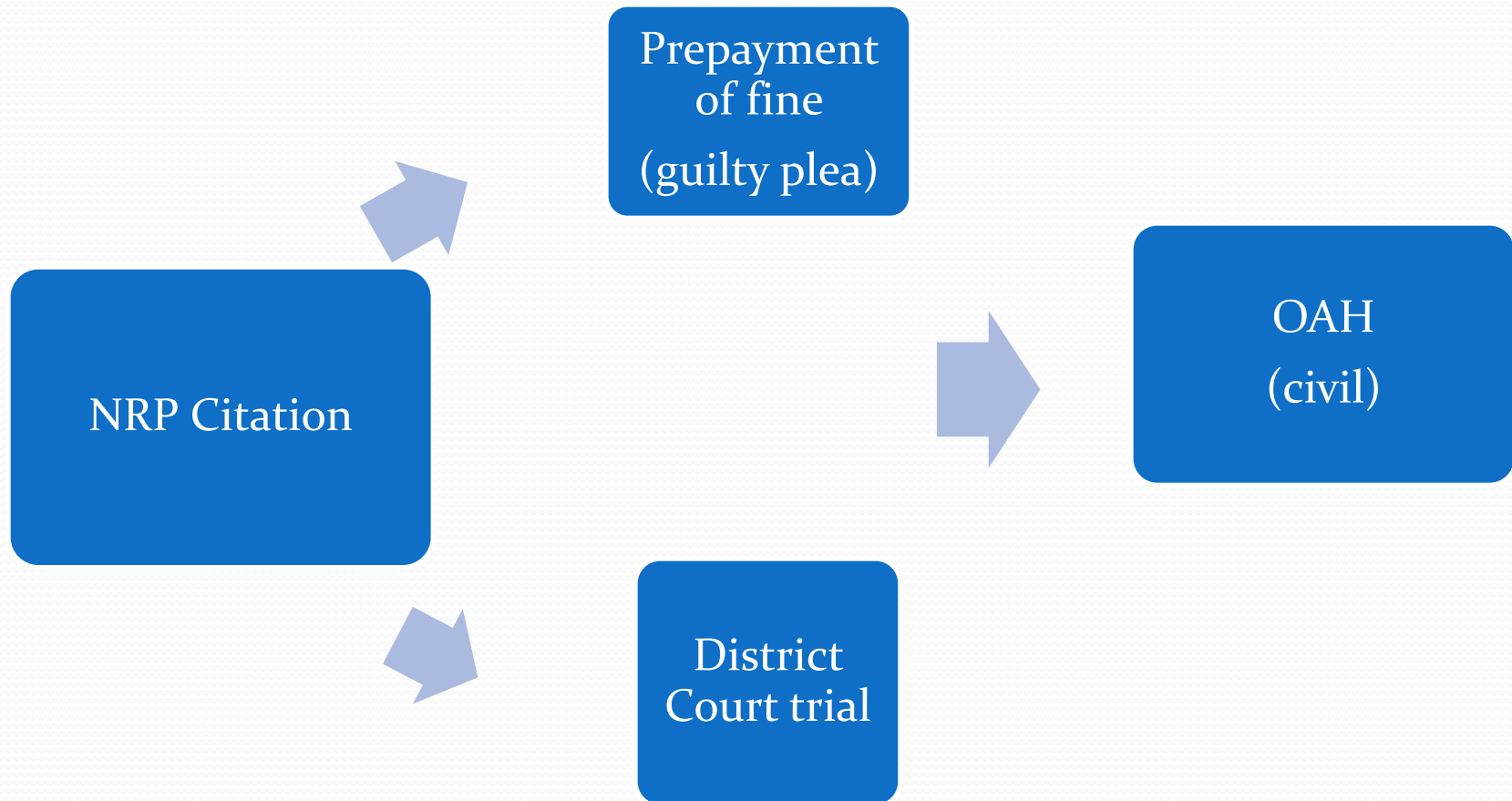
- To evaluate the effectiveness of current oyster enforcement strategies;
- Given the current duties of the Natural Resources Police, the NRP, evaluate the potential for increasing patrols to facilitate aquaculture and restoration activities.

# Progress at risk:

- The state has contributed more than \$7,000,000.00 to oyster restoration in Harris Creek. The mandate is to restore an additional nine (9) Maryland tributaries by 2025 at a similar or greater cost.
- The oysters in Harris Creek are approaching harvestable size.

# Progress at risk:

- The subcommittee determined that the best approach would be to assess the current enforcement mechanism by following the NRP citation process to identify any deficiencies and construct pragmatic solutions. This can best be explained by walking through a flow chart.



NRP Citation

Prepayment  
of fine  
(guilty plea)

District  
Court trial

OAH  
(civil)

# .08.02.13.02 Commercial License Suspension and Revocation.

- A. A person shall be notified when their tidal fish license, authorization, or entitlement to engage in a particular activity or activities under a tidal fish license is or may be subject to suspension or revocation.
- B. Before the Department imposes a suspension or revocation under this regulation, a person is entitled to a contested case hearing upon request in accordance with Natural Resources Article, §4-701, Annotated Code of Maryland.
- C. The Department may agree to a period of suspension or revocation with a person before proceeding to a contested case hearing.
- D. Suspension and Revocation.

# .08.02.13.02 Commercial License Suspension and Revocation

- (1) The suspension and revocation schedule in §D(3) of this regulation establishes the maximum number of days that a person's tidal fish license, authorization, or entitlement to engage in a particular activity or activities under a tidal fish license may be suspended or revoked through the accumulation of points. A lesser penalty may be imposed at the Department's discretion if the circumstances warrant it, to include consideration of the person's disciplinary record and the person's agreement to comply with any conditions that the Department may reasonably require.
- (2) Points are assigned to convictions by tier based on the severity of the violation.
- (3) A person who in any 2-year period accumulates the number of points provided below shall be penalized in accordance with the following schedule:

# .08.02.13.02 Commercial License Suspension and Revocation

Number of Points Accumulated in Any 2-Year Period	Maximum Period of Suspension or Revocation
10	30-day suspension
15	60-day suspension
20	90-day suspension
25	180-day suspension
30	365-day suspension
35	Revocation



# .08.02.13.02 Commercial License Suspension and Revocation

- (4) The Department shall administer the point system in order to:
  - (a) Deter future wrongdoing; and
  - (b) Conserve fisheries.
- (5) A person who receives a third suspension or revocation within a 6-year period pursuant to any provisions of Regulation .02 or .03 of this chapter is subject to an additional suspension of their tidal fish license, authorization, or entitlement to engage in a particular activity or activities under a tidal fish license for a period not to exceed 5 years.
- (6) When a person accumulates 25 points or more, is eligible for suspension for at least 180 days, or is eligible for revocation, for a commercial fishing violation, the Department may prohibit that person from transferring or obtaining a tidal fish license or authorization before any suspension or revocation is imposed.

# .08.02.13.02 Commercial License Suspension and Revocation

## E. General Prohibitions.

(1) If a person's tidal fish license, authorization, or entitlement to engage in a particular activity or activities under a tidal fish license is suspended or revoked that person is not and may not be authorized to engage or work in the fishery or fisheries for which the license, authorization, or entitlement was suspended or revoked whether or not the activity or activities require the use of another license, during the suspension or revocation period.

(2) When a person's tidal fish license, authorization, or entitlement to engage in a particular activity or activities under a tidal fish license is suspended or revoked, the Department may prohibit that person from engaging in any commercial fishing activities whether or not the activities require the use of another license, during the suspension or revocation period.

(3) Unless authorized by Natural Resources Article, §4-702, Annotated Code of Maryland, if a person's license, authorization, or entitlement to deal in seafood is suspended or revoked, that person may not deal in seafood harvested by another person whether or not the activity requires the use of another license, during the suspension or revocation period.

(4) A person whose license has been suspended may not apply for a new license through the apprenticeship program or transfer or purchase a license until after the suspension period has expired.

# .05 Recreational Fishing Suspension and Revocation.

- A. Any person who is convicted of an offence under §§D—G of this regulation or similar offences under federal law in Maryland may:
  - (1) Have all recreational fishing licenses issued by the Department revoked;
  - (2) Be prohibited from engaging in any recreational fishing for the period of time described in §§D—G of this regulation; and
  - (3) Be prohibited from applying for any recreational fishing licenses for the period of time described in §§D—G of this regulation.
- B. A revoked recreational fishing license is no longer valid for any purpose.
- C. Applying for a recreational fishing license or engaging in recreational fishing activities when prohibited from doing so by this regulation is a misdemeanor and punishable as provided in Natural Resources Article, §4-1201(c), Annotated Code of Maryland.
- D. A person who receives one of the following violations may be suspended for up to 30 days.

# .05 Recreational Fishing Suspension and Revocation.

	STATUTE OR REGULATION	DESCRIPTION
(1)	4-1015(b)	Possession of Unculled Oysters: 6—9% per bushel
(2)	4-1031	Possession of Undersized Hard-Shell Clams: 11—14 in possession
(3)	COMAR 08.02.03.14A	Crabs — Catch Day Restrictions

E. A person who receives one of the following violations may be suspended for up to 90 days.