



Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor
Mark J. Belton, Secretary
Mark L. Hoffman, Acting Deputy Secretary

Penalty Workgroup Summary June 2015

On June 2, 2015, the SFAC/TFAC Penalty Workgroup (PWG) met for their annual meeting in Annapolis.

Attendees:

- 1) Sarah Widman, DNR
- 2) Randy Bowman, NRP
- 3) Christian Dabb, OAG
- 4) Robert T. Brown, MWA
- 5) Roger Trageser, MBN
- 6) Bill Sieling, CBSIA
- 7) Richard Young, TFAC
- 8) Val Lynch, SFAC
- 9) Jacob Holtz, DNR

The following are the suggested changes to the District Court Natural Resources Fine Schedule for fishing violations:

New regs/statutes

- COMAR 08.02.04.03F – NSSP provisions for oysters
 - Suggested Fine– same penalty for aquaculture - \$650
- COMAR 08.02.05.02P – fishing/crabbing on a leased area (causing damage)
 - Suggested Fine – intentional - \$500/unintentional - \$25
- COMAR 08.02.05.07D – menhaden permit operator provisions – someone other than permittee or operator using permit (or failure to be named as operator, multiple operators, etc.)
 - Suggested Fine – operating without required permit - \$650
- COMAR 08.02.05.13D – commercial catch limit for spotted sea trout
 - Suggested Fine – 1-25 lbs: \$50, 26-74 lbs: \$100, 75 lbs+ : \$150
- COMAR 08.02.05.24F – spiny dogfish permit operator provisions
 - Suggested Fine - operating without required permit - \$650
- COMAR 08.02.01.13 – Fisheries Management Area rules
 - Suggested Fine -similar to feeding wildlife –\$50
- COMAR 08.02.25.02 and .03 – currently only lists rec gear – penalty table has projectile gear split out from other gears (higher penalties) due to public safety – should the fine for projectile gear be increased based on public safety issues?
 - Yes – suggested fine: \$250

The following are the suggested changes to the DNR Penalty Schedules:

Possible changes to current entries

Recreational

- Tidal black bass (largemouth and smallmouth) – currently follows numbers of other fish in tidal waters, but differs from penalties for black bass in nontidal waters – should there be a standardized penalty for both tidal and nontidal? Yes – will match in both tidal and nontidal.
 - Suggested change:

- 180 days
 - Season violation
 - Exceeding daily catch or possession limits
 - 50-99% of creel limit undersized
 - 365 days – 100% or more of creel limit undersized
- 365 days
 - Fishing on a suspended license – should we increase penalty? Yes, 2 years.
- Do we add related offenses to the Lacey Act category? (i.e. conspiracy) Yes, 2 years.
- Amend enhanced penalties for repeat violators
 - Any person who receives 5 or more 180-day or 365-day suspensions within an 8 year period will receive an additional 5 year suspension
 - Any person who receives 3 or more 30-day or 90-day suspensions within a 3 year period will receive an additional 1 year suspension

Charter

- Tier VI (30 points/365 days) – Lacey Act misdemeanor – should we combine with Lacey Act felony and make any Lacey Act violation result in potential revocation? Do we add related offenses to the Lacey Act category? (i.e. conspiracy) Yes, 2 years.
- Add violation of striped bass public notice (usually pertains to size/creel/season) to match other striped bass violations
- Increase penalty for exceeding daily catch limit for crabs – currently a Tier I violation (no suspension), will move to Tier IV (20 points/90 days) – aligns suspension with recreational levels, addresses concerns of illegal charters
- Increase maximum penalty for size limit or creel limit violations – current maximum is Tier III (15 points/60 days) – increase maximum to Tier VI (30 points/365 days)

Commercial

- Tier V
 - Move dynamiting from Tier V (25 points/180 days) to Tier VI (30 points/365 days) (Would make the suspension time match recreational and charter.) Yes – make them the same.
- Tier VI
 - Add 4-1210(d) to list of “suspended or revoked” authorities
 - Move Lacey Act misdemeanor from Tier VI to Tier VII – any Lacey Act violation would then potentially result in revocation. Do we add related offenses to the Lacey Act category? (i.e. conspiracy) 2 years for conspiracy/related activities.
- Add Natural Resources Article, §4-1210(d), Annotated Code of Maryland to list of authority for “operating while suspended or revoked”

Regs/statutes that may need to be added

Recreational

- COMAR 08.02.03.06 – number of collapsible crab traps/net rings
 - Suggested level: 90 days (trotline length violation currently set at 90 days)
- COMAR 08.02.05.04 – size of white perch – do we want to add this for more egregious offenses (25+? 50+?) – we have had a number of violations exceeding 100 fish and there is no administrative penalty
 - Suggested levels: 30 days for 20+, 90 days for 50+, 180 days for 100+
- COMAR 08.02.15.12B – take/possess SB between midnight and 5 a.m.
 - Suggested level: Maybe set at varying fish levels? Yes, number of fish will be tiered out.
- COMAR 08.02.15.12H – violation of SB public notice
 - Set at the same levels as catch limits? Yes

Charter

- COMAR 08.02.15.12H – violation of SB public notice
 - Set at the same levels as catch limits? Yes

Commercial

- COMAR 08.02.15.07F – exceeding commercial catch limit – tiered starting with: Tier II (10 points/30 day suspension of entire commercial fishing license/1 year suspension from striped bass fishery); the lesser of 50-99% of an individual’s allocation OR between 500-999 pounds and ending with Tier VII (35

points/commercial license revocation): the lesser of 300% or more of an individual's allocation OR 3,000 pounds

- COMAR 08.02.15.12H – violation of SB public notice
 - Set at the same levels as catch limits? Yes