

## **PENALTIES — Updates to Recreational, Commercial, and Seafood Dealer Penalty Schedules**

### **What is being considered?**

The department would like to update the recreational, commercial, and seafood dealer penalty schedules.

#### 1. Recreational updates:

- Add penalties for cobia size/creel violations
  - 2 undersized fish/2 fish over the creel limit: 90 day suspension
  - 3 or more undersized fish/3 or more fish over the creel limit: 1 year suspension
- Extend current brook trout penalties to apply to all brook trout violations (currently only brook trout-specific penalties exist for Savage River special management area)
  - 180 day suspension for any brook trout violation
- Add violations for spot creel limit violations – tiered the same as croaker violations
  - 4-6 over creel limit: 90 day suspension
  - 7-10 over creel limit: 180 day suspension
  - 11 or more over creel limit: 1 year suspension

#### 2. Commercial updates:

- Add failure to obtain a bait harvester permit to list of “fail to obtain a commercial license before engaging in commercial activities” violations (30 points/1 year suspension)
- Add administrative penalty for possession of undersized conch
  - 10% or more undersized – 5 points (no immediate suspension)

#### 3. Seafood Dealer update:

- Add administrative penalty for failure of oyster buyer to fill out buy ticket
  - First offense – no suspension (fine in District Court is a maximum of \$1,000)
  - Second offense or subsequent offense – 10 points (30 day suspension)

#### 4. Housekeeping updates: References which have been removed or amended will be updated.

### **Why is this change necessary?**

The department regularly updates its penalty schedule under the advice of the Sport Fisheries Advisory Commission/Tidal Fisheries Advisory Commission Joint Penalty Workgroup. The changes the department is considering are recommendations of the workgroup.

For the recreational updates, the addition of recreational suspensions for cobia is necessary due to their increased presence in Maryland waters. The suspension levels being considered for cobia are similar to the suspension levels for red drum, another highly regulated, generally less common fish in the Maryland portion of the Chesapeake Bay and its tidal tributaries. Brook trout regulations changed recently to extend protections for brook trout to much of the State’s nontidal waters. Currently, the only brook trout-specific suspension related to a previous special management area. This change will extend that same penalty to all of the new areas which are being managed in the same way as that previous special management area. Lastly, regulations were adopted for spot in 2021 which established a recreational catch limit. The proposed levels

of suspension mirror the levels set for exceeding the catch limit for croaker, another common small fish in the Chesapeake Bay and its tidal tributaries.

For the commercial updates, both additions were oversights from previous iterations of the commercial penalty schedule. A bait harvester permit is required for an individual to commercially harvest bait fish if they are not otherwise commercially licensed. Because it allows commercial harvest, failure to obtain that permit prior to engaging in the activity should be treated the same as any other failure to obtain a commercial authorization. All other failures to obtain a commercial authorization prior to engaging in the commercial activity result in 30 points being placed on the individual's commercial licensing record, which is why we are considering adding failing to obtain the bait harvester permit prior to harvesting bait at that level. For conch, we want to ensure that significant violations of the conch size limit have some administrative consequence. Maryland already has the most restrictive conch size limit among its neighboring states and assigning points to a commercial harvester's licensing record for these types of violations will ensure that repeat violators will be suspended.

For the seafood dealer update, buy tickets are an important component of how our Shellfish Division manages oysters. Buy tickets provide a measure of harvest accountability, as well as ensuring that the required taxes are being paid. Those taxes are used for oyster replenishment activities, which help to ensure a viable fishery into the future. If buy tickets are not filled out when oysters are sold, those taxes are not being paid and are short-changing the fishery of needed funds. Additionally, buy ticket information is used by the Shellfish Division in the oyster stock assessment. Because there are times where a dealer may lose paperwork or mistakenly forget to fill out the necessary forms, the penalty workgroup recommended that a first offense only be subject to a fine in District Court, while a second or subsequent offense would result in the suspension of that seafood dealer.

### **Who will this affect?**

This action will affect individuals who violate Maryland fisheries laws.

### **When will this be effective?**

The department expects this change to be effective in 2022, however the exact date cannot be determined. The department will follow our normal scoping and proposal procedures.

### **Has this change been discussed with advisory groups?**

1. Penalty Workgroup in June, 2021
2. Discussed at Sport Fisheries Advisory Commission (SFAC) and Tidal Fish Advisory Commission (TFAC) July 2021 meetings as part of the workgroup reports

### **Additional Info**

Information about penalties, including tables for commercial and recreational violations can be found in the Code of Maryland Regulations (COMAR).

Fishing Licenses — Point Assignment, License Revocation and Suspension Schedule and Criteria, and Hearing Procedure ([COMAR 08.02.13](#))