

PENALTIES – Updates to Penalty Schedules

What is being considered?

The Department is considering updates to its recreational, commercial, and charter penalty schedules. The Department maintains these administrative penalty schedules as an additional deterrent to breaking fisheries laws in addition to the fines that violators face in District Court.

1. Updates for Recreational Schedule

- Create additional tiers for oyster catch limit violations. Current penalties are a 90 day suspension if someone exceeds the catch limit by less than 100% over the limit (less than double) and 180 day suspension if they exceed the catch limit by 100% or more over the limit (double or more). The Department is considering adding an additional tier at 200% or more over the catch limit (in possession of triple the catch limit or more), which would result in a 1 year suspension.
- Increase the penalty for non-projectile gear violations. The current penalty for a non-projectile gear violation (e.g., recreationally fishing with an illegal net) is 90 days. Based on continued violations with these types of gears, the Department is considering increasing the penalty to 180 days to create a greater deterrent effect and a more significant consequence for breaking these rules.

2. Updates for Recreational, Charter, and Commercial Schedules

- Create penalty for moving state buoys, markers, or monuments. This violation is not currently on any of the penalty schedules. This type of violation would occur when an individual intentionally moves or destroys a state buoy, marker, or monument that is used to manage the harvest of the State's fish resources (i.e., oyster sanctuaries, clam lines, crab pot lines, and fish sanctuaries). There is currently a \$650 fine associated with this violation, but the Department is considering adding the following administrative penalties for this violation:
 - Recreational: 180 day suspension
 - Charter: 10 points/30 day suspension
 - Commercial: 10 points/30 day suspension
- Create administrative penalties for exceeding longnose gar catch limit. In 2023, the Department created catch limits for longnose gar that apply to all sectors. The Department is now considering creating the following suspension tiers for individuals who exceed these limits.
 - Recreational
 - 1 over the catch limit: no suspension
 - 2-4 over the catch limit: 90 day suspension
 - 5-10: 180 day suspension
 - 11 or more over catch limit: 1 year suspension
 - Charter and Commercial
 - 1 over the catch limit: 5 points (no suspension)
 - 2 over the catch limit: 10 points/30 day suspension
 - 3 over the catch limit: 15 points/60 day suspension
 - 4 over the catch limit: 20 points/90 day suspension
 - 5 or more over the catch limit: 30 points/365 day suspension

3. Updates for Charter and Commercial Schedules

Increase penalties on the charter and commercial penalty schedules for disturbing fishing gear owned by another person and clarify the penalty also applies to stealing fish and crabs out of gear owned by another person. The recreational penalty schedule already contains a 1 year penalty for removing fish, nets, or gear of another person. The current charter and commercial penalty schedules currently carry 15 points (60 day suspension) for this violation. The language used on the commercial penalty schedule is also not clear. The Department is considering increasing the penalty in the charter and commercial schedules to 30 points (1 year suspension) and making clear that the penalty applies to both the destruction of gear and taking fish or crabs out of gear that is owned by another person.

Why is this change necessary?

The Department regularly updates its penalty schedules 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.

The addition of an additional tier to the penalty for exceeding the recreational oyster catch limit is necessary to deter significant violators. There is currently no incentive to limit overharvest to a smaller amount because the administrative penalty is the same if the individual harvested twice the legal limit or ten times the legal limit. The maximum penalty for exceeding the oyster catch limit only being 180 days is also not consistent with the rest of the recreational penalty schedule, which usually has a maximum penalty of at least 1 year.

Increasing the penalty for recreational non-projectile gear violations is necessary because the Department continues to see these types of violations associated with other egregious violations such as undersized fish and over the limit of fish. Generally, these violations are use of illegal nets (i.e., use of cast nets in nontidal waters). Unfortunately, it is common for these cases to be settled in District Court by allowing the violator to plead guilty to one violation with the rest of the charges being dismissed. Furthermore, the illegal use of these types of gears is likely to lead to localized depletions of fish that law-abiding anglers target. By increasing the suspension these violations carry, it is more likely that a violator will be kept off the water for a longer period of time.

It is necessary to create a penalty for moving state buoys, markers, or monuments because of the importance those markers have in the management of the State's fish resources. If a buoy is intentionally moved off-station, it is much more challenging for individuals to recognize where they legally can or cannot harvest. The purpose of an individual who intentionally moves a buoy is to conceal illegal harvest. This type of citation is only issued when the Natural Resources Police have actual evidence that an individual moved a marker; it is not issued when an individual is just in the vicinity of a buoy that is off-station, as any number of things could have caused that circumstance (hurricane, ice, extreme tide, etc.). By creating an administrative penalty for this action, the Department believes it will discourage individuals from moving buoys, markers, or monuments, thereby ensuring the proper management of the State's fish resources and preventing law-abiding harvesters from accidentally being in an area where they are not allowed.

It is necessary to establish administrative penalties for longnose gar in order to deter individuals from exceeding the recently established catch limit for these fish. Longnose gar were declared as in need of conservation in 2023, with a catch limit of 1 fish per day between April 15 and June 30 and 5 fish per day between July 1 and April 14. This catch limit applies to all fisheries sectors (recreational, charter, and commercial).

It is necessary to increase the administrative penalties for stealing fish and crabs from the gear of another and clarifying that the penalties apply to both stealing fish and crabs from gear and the destruction of gear in order to address the serious nature of these violations. Because gear is often left in the water unattended (such as crab pots or pound nets), it is essential to the functioning of the fishery that an individual be able to trust that their gear will remain unmolested when they are not present. The Department believes that increasing the potential penalty for these actions will result in a more appropriate result should an individual be found to have stolen fish or crabs from another person or destroyed the gear of another person.

Lastly, the Department will make housekeeping corrections to the penalty schedule to ensure that the proper authority is cited for each violation as regulations have been moved or updated.

Who will this affect?

These changes will affect individuals who violate Maryland fisheries laws.

When would this be effective?

The Department projects that this change could be effective in the spring of 2025. However, the exact date cannot be determined. The Department will follow our normal [procedures](#) if this concept moves forward.

Has this change been discussed with advisory bodies?

1. It was discussed with the Penalty Workgroup in June 2024.
2. It was discussed at the Sport Fisheries Advisory Commission and Tidal Fish Advisory Commission at their July 2024 meetings as part of the workgroup reports.
3. It was scoped with the Sport Fisheries Advisory Commission and the Tidal Fisheries Advisory Commission at their meetings in October 2024.

Additional Info

Information about penalties, including tables for commercial and recreational violations can be found in the Code of Maryland Regulations ([COMAR 08.02.13](#))