

NOAA National Enforcement Summit



August 3, 2010

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Florida Fish and Wildlife Conservation Commission
Division of Law Enforcement

Florida Fish & Wildlife Conservation Commission

FWC

Consistency & Transparency

- Penalties
- Stakeholder interactions



Penalties

- FWC is a Constitutional Agency – Article IV, Section 9 of the Florida constitution 1998
- Penalties are prescribed by general law
 - The commission shall exercise the regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life, and shall also exercise regulatory and executive powers of the state with respect to marine life, except that all license fees for taking wild animal life, fresh water aquatic life, and marine life and penalties for violating regulations of the commission shall be prescribed by general law.



Penalties

- **“Enhanced” penalties – Recreational**
 - Minimum fine amount set by statute
 - License/Permit suspension/revocation

- **Administrative penalties – Commercial**
 - Agency imposed
 - Civil Assessments – monetary
 - License/Permit suspension/revocation



“Enhanced” Penalties

Four Levels of Violations

- LEVEL ONE - NONCRIMINAL INFRACTION
- LEVEL TWO - 2ND DEGREE MISDEMEANOR
- LEVEL THREE - 1ST DEGREE MISDEMEANOR
- LEVEL FOUR - 3RD DEGREE FELONY



“Enhanced” Penalties

CONTINUED

Level 1

- NONCRIMINAL INFRACTION
- \$50 FINE PLUS THE COST OF THE LICENSE
- IF A VIOLATOR COMMITS THE SAME VIOLATION WITHIN 36 MONTHS – \$100 FINE PLUS COST OF THE LICENSE



“Enhanced” Penalties

CONTINUED

Level 2

- 2ND DEGREE MISDEMEANOR
- LEVEL TWO VIOLATION WITHIN 3 YEARS AFTER A PREVIOUS CONVICTION FOR A LEVEL TWO OR HIGHER VIOLATION IS A MISDEMEANOR OF THE FIRST DEGREE, MINIMUM MANDATORY FINE OF \$250
- LEVEL TWO VIOLATION WITHIN 5 YEARS AFTER TWO PREVIOUS CONVICTIONS FOR A LEVEL TWO OR HIGHER VIOLATION IS A MISDEMEANOR OF THE FIRST DEGREE, MINIMUM MANDATORY FINE OF \$500 AND A SUSPENSION OF ANY RECREATIONAL LICENSE OR PERMIT FOR 1 YEAR



“Enhanced” Penalties

CONTINUED

Level 3

- 1ST DEGREE MISDEMEANOR
- A LEVEL THREE VIOLATION WITHIN 10 YEARS AFTER A PREVIOUS CONVICTION FOR A LEVEL THREE OR HIGHER VIOLATION, MISDEMEANOR OF THE FIRST DEGREE, MINIMUM MANDATORY FINE OF \$750 AND A SUSPENSION OF ANY RECREATIONAL LICENSE OR PERMIT FOR 3 YEARS.
- FISHING, HUNTING OR TRAPPING WITH A SUSPENDED OR REVOKED LICENSE - A PERSON WHO VIOLATES THIS SUBSECTION COMMITS A LEVEL THREE VIOLATION AND SHALL RECEIVE A MANDATORY FINE OF \$1,000 AND 5-YEAR SUSPENSION



“Enhanced” Penalties

CONTINUED

Level 4

- 3RD DEGREE FELONY

- CURRENT STATUTORY PENALTIES APPLY
 - IMPRISONMENT NOT EXCEEDING 5 YEARS
 - FINE NOT TO EXCEED \$5,000



Administrative Penalties

- Additional fines and license suspensions assessed to commercial harvesters who have been cited for or convicted of major violations
- Separate from criminal process; the court can also order license suspensions
- There are specific penalties for specific violations, as specified in Florida Statutes and Florida Administrative Code



Administrative Penalties - Suspensions

- Suspension of endorsements: stone crab, spiny lobster, blue crab endorsements may be suspended for the remainder of a fishing season
- Suspension of all saltwater license/fishing privileges
- Permanent revocation of all saltwater license/fishing privileges
- Some suspensions/revocations restrict fishers from working on a commercial boat during suspension/revocation period (i.e., net violations)



Administrative Penalties: Fines

- Fines can range anywhere from \$25 to \$5,000 for a first offense
- Commercial licenses will not be issued/renewed and trap tags will not be issued until all fees have been paid in full
- Even if a license suspension has expired, licenses may remain “suspended” for much longer for non-payment
- If fines are not paid, sent to collections and will show up on credit report



Major Violations

Identified in statute (s. 379.407, F.S.)

In addition to the penalties provided in paragraphs (1)(a) and (b), the court shall assess additional penalties against any commercial harvester convicted of major violations as follows:



Major Violations

- Net violations:
 - Illegal use of gill/entangling net
 - Net carriage violations (failure to transit directly to and from federal waters)
 - Flagrant violations

- Trap violations:
 - Untagged traps
 - Trap theft and trap molestation

- Specific violations for certain species
 - Possession of wrung tails on the water
 - Pulling traps at night

- Illegal sale or harvest



Transparency

- Due process
 - Constitution
 - The commission shall establish procedures to ensure adequate due process in the exercise of its regulatory and executive functions.
 - Commission rule
 - 68-1.008 - 2008



Transparency

- Examples of what has helped FWC
 - External
 - Public meetings – on site; webinar; conference call
 - List serve – email communications
 - Website documents



Transparency

- Examples of what has helped FWC
 - Internal
 - Workgroups across Divisional lines
 - Staff meetings to include other Division employees
 - Priority calibration across Division lines



Summary

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Consistency - Processes

Transparency – People

Overlap and Intersect

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Consistency
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Transparency
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Questions?

"Life is like riding a bicycle. To keep your balance you must keep moving."

-- Albert Einstein

