



ENHANCE ★ PROTECT ★ CONSERVE

# Commission on Marine Resources

Work Session  
October 28, 2019



ENHANCE ★ PROTECT ★ CONSERVE

# Title 22 Part 20

## Administrative Penalty Procedures

### Chapter 21

### Paragraphs 104 & 105

# §49-15-63 Criminal Penalties

- **Subsection (a)** spells out the monetary fines for each offense.
  - 1<sup>st</sup> offense - not less than \$100, nor more than \$500
  - 1<sup>st</sup> offense committed during a closed season - not less than \$500, nor more than \$1,000
  - 2<sup>nd</sup> offense - not less than \$500, nor more than \$1,000 (when committed 3 years from the 1<sup>st</sup> offense)
  - 3<sup>rd</sup> or subsequent offenses - not less than \$2,000 nor more than \$4,000, or imprisonment in the county jail for not more than 30 days (when committed within 3 years from the 1<sup>st</sup> offense)
- **Subsection (b)** deals with revocation of licenses for criminal convictions.
  - Upon conviction of 3<sup>rd</sup> or subsequent offense, it shall be the duty of the court to revoke the license of the convicted party and of the boat or vessel used in the offense, and no further license shall be issued to such person and for said boat to engage in catching or taking of any seafood from the waters of the State of Mississippi for 1 year following conviction.
  - Also provides for forfeiture of equipment or nets used in a 2<sup>nd</sup> or subsequent offense.



- **Subsection (c)** provides that any person convicted and sentenced for a 2<sup>nd</sup> or subsequent offense shall not be considered for a reduction in sentence.
- **Subsection (e)** provides that the **Commission may** (in addition to any other penalties) **suspend** the **license** of any person and the vessel, convicted of a violation of this chapter:
  - For 1<sup>st</sup> offense = **suspension** of 5 days.
  - For 2<sup>nd</sup> offense = **suspension** not to exceed 30 days.
- **Subsection (f)** provides that the **Commission may revoke** the **license** of the convicted party and the vessel used in the offenses, and **may prohibit indefinitely the issuance of a license** to the person and vessel to engage in catching or taking of any seafood from the waters of the State of Mississippi for 5 seafood violations within a 5 yr period.

**§49-15-325. Suspension or Revocation of licenses for noncompliance with a summons or citation or for nonpayment of fines, fees or assessments**

- **Subsection (2)** provides that the court clerk shall notify the person in noncompliance by mail and if that person does not then comply or pay within 10 days, the court will notify the Commission and the Commission **will revoke** the **license** of that person.
- After receiving notice from the court, the **Commission shall** revoke the applicable **license** of that person.
- **Subsection (3)** provides that the **license shall remain revoked** until the person can show proof that all obligations of the court have been met.

## Title 22 Part 20 Administrative Penalty Procedures

- This regulation was established to carry out the authorities granted by MCA §49-15-401 thru §49-15-417.
- §49-15-409 grants the Commission jurisdiction over all persons and property necessary to administer and enforce provisions of this article and the Commission's regulations.
- §49-15-413 establishes that the penalties imposed under this article are civil penalties of up to \$10,000.
- If a violation is brought before the Commission for an administrative/civil penalty, that same violation may not be brought before the court for criminal penalties.



## Chap 21, Paragraph 104 Current Language

- Suspension or revocation of licenses or permits may be commenced in addition to seeking administrative penalties.

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- The Commission desired to establish a penalty matrix for the suspensions or revocations for administrative actions.
- The proposed penalty matrix only applies to those regulatory program requirements that are issued by the Commission and do not apply to licenses that are issued pursuant to statute.

# Proposed Language

- 104 Suspension or revocation of licenses or regulatory program requirements such as but not limited to, endorsements, tags, permits or similar provisions may be commenced in addition to seeking administrative penalties.
- 105 The Commission may suspend or revoke regulatory program requirements established by the Commission, such as but not limited to, endorsements, tags, permits, or similar provisions for violations related to that particular program in accordance with the following schedule:
  - For 1<sup>st</sup> offenses, a suspension for up to 3 months;
  - For 2<sup>nd</sup> offenses, a suspension for up to 6 months;
  - For 3<sup>rd</sup> offenses, a suspension of up to 1 year;
  - For 4<sup>th</sup> and subsequent offenses, a suspension for up to 2 years or revocation.
  - Suspensions shall be scheduled for a time period coinciding with the particular fishing season in which the offense is related.



- If the violation is deemed to be so egregious as to warrant a suspension outside of the penalty matrix, the Commission, by unanimous vote, may impose a suspension outside of the above matrix by skipping to the next level. (For example, if it's a 1<sup>st</sup> offense that is deemed to be so egregious as to warrant a suspension outside of the penalty matrix stated above, the Commission, by unanimous vote, may impose a suspension for up to 6 months as allowed under the 2<sup>nd</sup> offense tier.)
- In the event that a violator does not pay the administrative penalty assessed by the Commission in full within twenty-four (24) months, the Commission may, by majority vote, indefinitely suspend the endorsement, tag, permit or similar regulatory program requirement related to the violation until such time as the penalty is paid in full.

# Required Action

- Motion for staff to take the proposed language establishing a penalty matrix for administrative actions out for Notice of Intent.