

Response to Public Comment on NOAA’s Revised Penalty Policy
June 21, 2019

On May 2, 2019, NOAA issued a Federal Register [Notice](#) announcing that it was revising its “Policy for the Assessment of Civil Administrative Penalties and Permit Sanctions” (Penalty Policy), primarily to reflect legislation passed and regulations promulgated since issuance of the 2014 Policy, and seeking public comment on the proposed revisions.

In response to that notice, NOAA received one comment, which is summarized below.

Comment: The commenter expressed appreciation for NOAA’s desire for enforcement consistency across all regions and fisheries, but recommended that the agency take into account the characteristics of individual fisheries when assessing the reasonableness of a particular penalty. The commenter also expressed the view that the Alaska Region Summary Settlement & Fix-It Schedule takes into account these differences, as well as the hope that the revised Alaska Region Summary Settlement Schedule will continue to do so.

Response: As reflected in the Penalty Policy, in determining the appropriate penalty in a particular case, NOAA is required, under many of the statutes that it enforces, to take into account a number of factors.¹ These include “such other matters as justice may require,” which may include a fishery’s unique characteristics. The comments related to the Alaska Region Summary Settlement & Fix-It Schedule are outside the scope of the proposed revisions to the Penalty Policy.

¹ For example, the Magnuson-Stevens Fishery Conservation and Management Act provides that “[i]n determining the amount of [a] penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.” 16 U.S.C 1858(a).