



Penalty Schedule (pgs. 75 – 80 OTS-1840.3)

How is the penalty calculated?

- Base Penalty + Specific Considerations = Penalty for the Violation

How much is the base penalty?

- These violations have a base penalty amount of two thousand dollars:
 - Conducting a hydraulic project without a valid HPA;
 - Willful misrepresentation of information on the HPA application; and
 - A significant deviation from the valid HPA that adversely impacts fish life
- All other violations not specifically mentioned have a base penalty of five hundred dollars.

What are the specific considerations?

- Previous violation history:
 - 0 points = The violator has no documented violations within five years preceding the violation leading to the issuance of the penalty.
 - 2 points = The violator has one documented violation within five years preceding the violation leading to the issuance of the penalty.
 - 4 points = The violator has more than one documented violation within five years preceding the violation leading to the issuance of the penalty.
- Severity and reparability of impacts:
 - 0 points = There is no adverse impact to fish life.
 - 2 points = There is adverse impact to fish life, but it is minor, and no impacts will last beyond the duration of the construction activity.
 - 4 points = There is extensive and/or significant adverse impact to fish life and impacts will last beyond the duration of the construction activity.
- Whether the violation(s) was intentional:
 - 0 points = The violation was not foreseeable.
 - 1 point = The violation was foreseeable, and no precaution was taken to avoid it.
 - 3 points = The violation occurred after consultation, a technical or compliance site visit, or an enforcement action; or there was a clear economic incentive.
- The extent to which the person who would be incurring the penalty has cooperated or is cooperating with the department:
 - 0 points = The violator reported the violation in a timely manner and cooperated with department staff to correct the violation.
 - 1 point = The violator did not report the violation in a timely manner, or they did not cooperate with department staff to correct the violation.
 - 3 points = The violator ignored or evaded department contacts or refused to allow department staff to enter the job site where the violation occurred.



How is the penalty amount calculated?

The department will calculate a penalty for each violation by adding the points assessed for the specific considerations and applying those corresponding amounts listed in the table below to the base penalty. This will determine the total penalty for each violation not to exceed \$10,000.

<u>Points</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
<u>Penalty</u>	<u>\$1,000</u>	<u>\$2,000</u>	<u>\$3,000</u>	<u>\$4,000</u>	<u>\$5,000</u>
<u>Points</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10 or Greater</u>
<u>Penalty</u>	<u>\$6,000</u>	<u>\$7,000</u>	<u>\$8,000</u>	<u>\$9,000</u>	<u>\$10,000</u>

Examples of Penalty Scenarios

Scenario 1

- The violator has more than one documented violation within five years preceding the violation leading to the issuance of the penalty.
- There is extensive and/or significant adverse impact to fish life and impacts will last beyond the duration of the construction activity.
- The violation was foreseeable, and no precaution was taken to avoid it.
- The violator did not report the violation in a timely manner, or they did not cooperate with department staff to correct the violation.

10 Specific Considerations Points = \$10,000
 + Base Penalty = \$10,000

Scenario 2

- The violator has no documented violations within five years preceding the violation leading to the issuance of the penalty.
- There is adverse impact to fish life, but it is minor, and no impacts will last beyond the duration of the construction activity.
- The violation was not foreseeable.
- The violator did not report the violation in a timely manner, or they did not cooperate with department staff to correct the violation.

3 specific considerations points = \$3,000
 + \$500 Base Penalty = \$3,500