

UNITED STATES – CANADA BILATERAL ENFORCEMENT AGREEMENT

The following penalty ranges are internal guidelines intended to aid case attorneys to determine, in the exercise of their prosecutorial discretion, the appropriate penalty to charge in a NOVA. The penalty ranges are intended to reflect the norm for a particular violation and violator within which relevant aggravating and mitigating factors are applied. The facts and circumstances of a particular case may justify either raising or lowering the proposed penalty, including outside the penalty range, if aggravating or mitigating factors are present that are not adequately reflected within the range.

The “penalty class” represent an objective judgment of the severity of the offense relative to other offenses. The “fishing categories” are intended to reflect, in a general way, economic differences both within and among various fisheries, as well as potential for larger and more efficient vessels to inflict grater harm on the resource, and are particularly appropriate for violation types in sections I and II below. For violations in which the “fishing categories” are not appropriate (such as those in section III), the category “other” may be used.

PENALTY CLASSES

<u>Classes</u>	<u>First Violation</u>	<u>Second Violation</u>	<u>Third Violation</u>
Class A	up to \$60,000	up to \$80,000	up to \$100,000
Class B	up to \$45,000	up to \$65,000	up to \$85,000
Class C	up to \$30,000	up to \$45,000	up to \$65,000
Class D	up to \$15,000	up to \$30,000	up to \$50,000
Class E	up to \$5,000	up to \$10,000	up to \$20,000

Note that no violations are currently designated as Class E. This class may be used where there are mitigating factors that justify reducing the penalty below designated ranges.

FISHING CATEGORY DEFINITIONS & CORRESPONDING PENALTY RANGES

Category 1 – small, one or two person vessel, or fishery with low-valued average catch or low average income

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Category 2 – average sized vessel, such as medium stern trawler or scallop dredge vessel, average value of resource; most vessels and/or fishing operation fall within this category.

Category 3 – large factory trawler or vessel where average catch is especially lucrative or which involves seriously stressed or over-fished resources.

Other – appropriate if the size of the vessel or value of the resource is not relevant to the violation such as where an individual is charged with assaulting an officer (see, violations in sec. III of the table below).

<u>Class/Category</u>	<u>First Violation</u>	<u>Second Violation</u>	<u>Third Violation</u>
Class A Violations			
Category 1	\$10,000-\$20,000#*	\$15,000-\$25,000#*	\$22,000-\$37,000#*
Category 2	\$25,000-\$50,000#*	\$45,000-\$75,000#**	\$65,000-\$95,000#@
Category 3	\$50,000-\$60,000#*	\$55,000-\$85,000#**	\$75,000-\$100,000#@
Other	\$20,000-\$45,000#*	\$25,000-\$65,000#**	\$37,000-\$85,000#@
Class B Violations			
Category 1	\$5,000-\$15,000#	\$7,000-\$20,000#	\$12,000-\$25,000#
Category 2	\$20,000-\$35,000#	\$30,000-\$50,000#**	\$40,000-\$75,000#@
Category 3	\$35,000-\$45,000#*	\$40,000-\$65,000#**	\$55,000-\$85,000#@
Other	\$15,000-\$30,000#	\$20,000-\$40,000#**	\$25,000-\$65,000#@

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Class C Violations

Category 1	\$1,000-\$5,000	\$3,000-\$7,500	\$5,000-\$12,000
Category 2	\$7,000-\$20,000#	\$15,000-\$35,000*	\$25,000-\$50,000**
Category 3	\$20,000-\$30,000#	\$25,000-\$45,000*	\$40,000-\$65,000**
Other	\$5,000-\$18,000#	\$7,500-\$25,000*	\$12,000-\$35,000**

Class D Violations

Category 1	\$1,000-\$3,000	\$2,000-\$4,000	\$4,000-\$8,000
Category 2	\$5,000-\$15,000	\$8,000-\$25,000@	\$20,000-\$40,000*
Category 3	\$10,000-\$20,000	\$15,000-\$30,000@	\$25,000-\$50,000*
Other	\$3,000-\$12,000	\$4,000-\$20,000@	\$8,000-\$30,000*

Class E Violations

Category 1	\$0-\$1,000	\$500-\$1,500	\$1,000-\$3,000
Category 2	\$1,000-\$3,000	\$2,500-\$7,000	\$7,000-\$12,000*
Category 3	\$2,500-\$5,000	\$5,000-\$10,000	\$10,000-\$20,000*
Other	\$1,000-\$3,000	\$1,500-\$7,000	\$3,000-\$9,000

notes:

* plus 60 day permit suspension

** plus 120 day permit suspension

plus forfeiture of catch (catch generally deemed illegal in its entirety when vessel violates in Canadian waters, if catch cannot be seized, penalty may be adjusted to reflect the estimated value of catch or other appropriate amount if estimate is not available)

@ permit revoked and/or vessel seized (may be considered in any case where either violence or the threat thereof is involved or where the offense is egregious or where a repeat offender is involved)

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VIOLATION	VIOLATION HISTORY - PENALTY AMOUNT
	Class Designation
I. FISHING VIOLATIONS	
Engage in unauthorized fishing or take fish in Canadian waters	Class A
Fail to stow gear	Class B
II. OBSTRUCTION VIOLATIONS	
Dispose of fish or other items:	
If behavior involves concealment of the violation or evidence	Class A
Otherwise	Class B
Minor Infraction	Class C
Refuse to allow boarding by an authorized officer:	
Aggravated: involves flight or other dangerous behavior	Class A
Otherwise	Class B
Minor Infraction	Class C

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VIOLATION	VIOLATION HISTORY - PENALTY AMOUNT
	Class Designation
<p>Falsify/Obscure official number</p> <p>If minor</p> <p>May be appropriate in especially aggravated case involving willful behavior</p>	<p>Class C or D</p> <p>Class A</p>
<p>False Statement</p> <p>If minor</p> <p>May be appropriate in especially aggravated case involving willful behavior</p>	<p>Class C or D</p> <p>Class A</p>
III. INTERFERENCE WITH OFFICER, ASSAULT	
<p>Assault, resist, interfere with investigation:</p> <p>Aggravated: bodily harm, or danger or threat of harm</p> <p>Aggravated: forcible act</p> <p>Otherwise</p>	<p>Class A</p> <p>Class B</p> <p>Class C</p>
<p>Fail to comply with enforcement instructions</p>	<p>Class D</p>

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VIOLATION	VIOLATION HISTORY - PENALTY AMOUNT
	Class Designation
Fail to respond to inquiry from authorized officers	Class D