

Example Penalties

Current Penalty Matrix and Penalty Calculation Worksheet

See Appendix A for current penalty matrix and penalty calculation worksheet.

Case 1: Failed Source Test-SM-80

A facility conducted source testing and failed their VOC limit on one system by 900%. They also failed their toluene limit on one system by 350%. The facility quickly rescheduled a retest and sent the excess emissions form within 24 hours of being notified of the failure. They completed a thorough investigation with corrective actions taken and a detailed root cause analysis on time and unprovoked by the Division.

- Current Penalty Matrix-Appendix B
 - 900% VOC failure- \$27,000
 - 350% Toluene failure- \$21,000
- New Penalty Practice-Appendix C
 - 900% VOC failure- \$29,250
 - 350% Toluene failure- \$20,125

Case 2: Recordkeeping-Class II

A facility had many instances where required records were not kept. 500 instances of missing daily records and 8 instances of missing quarterly records.

- Current Penalty Matrix-Appendix D
 - \$304,800
- New Penalty Practice-Appendix E
 - Capped at \$40,000

Appendix A: Current Penalty Matrix

Table 1
ADMINISTRATIVE PENALTY MATRIX - Non-Emissions Air Quality Violations
 (Note that the Penalty Worksheet is used to augment or adjust some penalties)
 Page 1 of 2

Permit Class	Constructing or Operating without a Permit (per major processing system or unit)	Failure to Install required Air Pollution Control Equipment (per emission unit)	Failure to Maintain Process or Air Pollution Control Equipment [The Penalty Matrix is used to assess the severity of any resulting Excess Emissions]	Failure to Comply with a Permitted Operating Parameter	Failure to Conduct Required Monitoring, Recordkeeping, or Reporting including incomplete or inadequate source test reports (per reporting period or per unit-day)	Failure to Comply with a Stop Order or any provision in a Schedule of Compliance
1	\$10,000	\$5,000	\$1,000	\$1,000	ACC: \$2,000 SAMR: \$1,000 AER: \$1,000 Other: \$600	\$10,000
2	\$3,000	\$1,000	\$600	\$600	\$600 [for major violations, as identified by NAC 445B.281.4]	up to \$10,000
2 - General	\$1,000	\$1,000	\$600	\$600	\$600 [for major violations, as identified by NAC 445B.281.4]	up to \$10,000
SAD	\$500 plus \$50 per acre of planned disturbance	N/A	\$600	\$600	\$600 [for major violations, as identified by NAC 445B.281.4]	up to \$5,000
3	800 (per facility)	\$600	\$600	\$600	\$600 [for major violations, as identified by NAC 445B.281.4]	up to \$5,000
Time Basis (Guideline)	Minimum; weekly to monthly (discretionary)	Daily	Event	Per standard or basis of operating parameter	Event	Daily

Table 1 Continued
ADMINISTRATIVE PENALTY MATRIX - Violations Related to Source Tests & CEMS Audits
 (Note that the Penalty Worksheet is used to augment or adjust some penalties)
 Page 2 of 2

Permit Class	Failure to Provide adequate (30-day) Notification	Failed Source Test exceedance of permitted emissions limit (minimum; penalty matrix used to assess gravity component)	Late Test or Failure to Test	Failure to Conduct IOCD's	Failure to Conduct Quarterly or Semi-annual audit (per pollutant)	Failure to Conduct RATA (per pollutant)
1	\$1,000	\$7,500 per "major" pollutant*, PSD, BACT or NSPS violation; \$5,000 per "SM trigger*" pollutants; \$4,000 per other pollutant(s)	\$1,000 per system per month, up to a maximum of \$15,000 per system	\$200 per system per month, up to a maximum of \$2,000 per system	\$10,000 to \$20,000	\$30,000
					above based on \$2,500 - \$3,000/month penalty for delays in conducting the required audit	
Synthetic Minors	\$1,000	\$5,000 per "SM trigger*" pollutants; \$3,000 per other pollutant(s)	\$1,000 per system per month, up to a maximum of \$15,000 per system	\$200 per system per month, up to a maximum of \$2,000 per system	\$5,000	\$15,000
					above based on \$2,500 - \$3,000/month penalty for delays in conducting the required audit	
2	\$1,000	\$4,000 per NSPS violation, \$2,500 other pollutant	\$600 per system per month, up to a maximum of \$10,000 per system	\$200 per system per month, up to a maximum of \$2,000 per system	\$5,000	\$15,000
					above based on \$2,500 - \$3,000/month penalty for delays in conducting the required audit	
2 - General	\$500	\$4,000 per NSPS violation, \$2,500 other pollutant	\$600 per system per month, up to a maximum of \$10,000 per system	\$200 per system per month, up to a maximum of \$2,000 per system		
3	\$500	\$1,000	\$250 per system per month, up to a maximum of \$2,500 per system	\$100 per system per month, up to a maximum of \$1,000 per system		
Time Basis (Guideline)	Each Test	Also requires retest to verify compliance	Each Test	Each Test	Requires Re-certification RATA	

Note: A failed Method 9 Visible Emissions Observation carries a base penalty of \$1,000 as described in the Penalty Worksheet.

PENALTY WORKSHEET

For:

Violation:

NOAV:

I. Gravity Component

A. Base Penalty: \$1,000 or as specified in the Penalty Table = _____

B. Extent of Deviation – Deviation Factors:

1. Volume of Release:

A. For CEMS or source testing, see *Guidelines* on page 3.

Adjustment to Base Penalty = _____

B. For opacity, see *Guidelines* on page 3 and refer to table below.

1	1.5	2.5	4	6
Negligible amount	Relatively low amount	Medium amount	Relatively high amount	Extremely high amount

Adjustment to Base Penalty = _____

2. Toxicity of Release: Hazardous Air Pollutant (if applicable)

3. Special Environmental/Public Health Risk (proximity to sensitive receptor):

1	2	3	4
Negligible amount	Medium amount	Relatively high amount	Extremely high amount

Deviation Factors 1 x 2 x 3:

C. Adjusted Base Penalty: Base Penalty (A) x Deviation Factors (B) = _____

D. Multiple Emission Unit Violations or Recurring Events:

_____ X _____ = _____
Dollar Amount Number of years and Units Total Gravity Fine

II. Economic Benefit

A.		+		=	
	Delayed Costs		Avoided Costs		Economic Benefit
Subtotal		+		=	
	Total Gravity Fine		Economic Benefit		Fine Subtotal

III. Penalty Adjustment Factors

A. Mitigating Factors

 %

B. History of Non-compliance

- Similar Violations (NOAVs) in previous 5 years:
Within previous year (12 months) = 3X (+300%)
Within previous three years (36 months) = 2X (+200%)
Occurring over three years before = 1.5X (+150%)

 %

- All Recent Violations (NOAVs) in previous 5 years:
(+5%) X (Number of recent Violations) = X =

Total Penalty Adjustment Factors - **Sum of A & B:**

 %

IV. Total Penalty

	X		=	
Penalty Subtotal (from Part II)		Total Adjustment Factors		Total Adjustment
	+		=	
Penalty Subtotal (from Part II)		Penalty Increase or Decrease		Total Penalty

Assessed by:

 Date:

Guidelines for I.A.1, Gravity Component: Potential for Harm, Volume of Release

Determining Volume of Release based on opacity:

1	1.5	2.5	4	6
Negligible amount	Relatively low amount	Medium amount	Relatively high amount	Extremely high amount

Opacity:	< 20% or NSPS limit (where NSPS opacity limit is < 20%)	$\geq 20\%$ or NSPS limit	$\geq 30\%$	$\geq 40\%$	$\geq 50\%$
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Determining Volume of Release based on CEMS or source testing:

Use excess emission ratio: Ratio of Emissions to Permitted Emission Limit, r

<u>Source & pollutant info</u>	<u>Emissions/(Permit limit)</u>	<u>Adjustment to Base Penalty</u>
Minor sources:	$r < 1.2$	(none)
<i>(all pollutants are minor)</i>	$r \geq 1.2$	proportional to r
Major & SM sources:		
Minor pollutant	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to r
“Threshold” pollutant*	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to r
Major pollutant	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to r

Hazardous Air Pollutant (HAP) – see Part I.B.2 Toxicity of Release (2X multiplier)

Appendix B: Current Penalty Matrix-Case 1

**Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations**

For: Facility - FIN AXXXX - Permit APXXXX-XXXX

Violation: NAC445B.275(1)(c) - Failed Source Test - Other Pollutant

NOAV: 9999A

I. Gravity Component

A. Base Penalty: \$1,000 or as specified in the Penalty Table = \$ 3,000

B. Extent of Deviation – Deviation Factors:

1. Volume of Release:

A. For CEMS or source testing, see Guidelines on page 3.

Adjustment to Base Penalty = 9

B. For opacity, see Guidelines on page 3 and refer to table below.

1	1.5	2.5	4	6
Negligible amount	Relatively low amount	Medium amount	Relatively high amount	Extremely high amount

Adjustment to Base Penalty = 1

2. Toxicity of Release: Hazardous Air Pollutant (if applicable)

Adjustment to Base Penalty = 1

3. Special Environmental/Public Health Risk (proximity to sensitive receptor):

1	2	3	4
Negligible amount	Medium amount	Relatively high amount	Extremely high amount

Adjustment to Base Penalty = 1

Deviation Factors 1 x 2 x 3: 9

C. Adjusted Base Penalty: Base Penalty (A) x Deviation Factors (B) = \$27,000

D. Multiple Emission Unit Violations or Recurring Events:

$$\frac{\$ 27,000}{\text{Dollar Amount}} \times \frac{1}{\text{Number of Events}} \times \frac{1}{\text{Number of Systems}} = \underline{\$27,000} \text{ Total Gravity Fine}$$

**Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations**

II. Economic Benefit

A.	\$ <u> -</u>	+	\$ <u> -</u>	=	\$ <u> -</u>
	Delayed Costs		Avoided Costs		Economic Benefit
Subtotal	\$ <u> 27,000 </u>	+	\$ <u> -</u>	=	\$ <u> 27,000 </u>
	Total Gravity Fine		Economic Benefit		Fine Subtotal

III. Penalty Adjustment Factors

A. Mitigating Factors	0%
B. History of Non-compliance	
1. Similar Violations (NOAVs) in previous 5 years:	
Within previous year (12 months) = 3X (+300%)	
Within previous three years (36 months) = 2X (+200%)	
Occurring over three years before = 1.5X (+150%)	0%
2. All Recent Violations (NOAVs) in previous 5 years:	
(+5%) X (Number of recent Violations) = 5% X 0 =	0%
Total Penalty Adjustment Factors - Sum of A & B:	0%

IV. Total Penalty

\$ <u> 27,000 </u>	x	\$ <u> 0% </u>	=	\$ <u> - </u>
Penalty Subtotal (from Part II)		Total Adjustment Factors		Total Adjustment
\$ <u> 27,000 </u>	+	\$ <u> - </u>	=	\$ <u> 27,000.00 </u>
Penalty Subtotal (from Part II)		Penalty Increase or Decrease		Total Penalty

Assessed by: 0

Date: 1/0/1900

**Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations**

Guidelines for I.A.1, Gravity Component: Potential for Harm, Volume of Release

Determining Volume of Release based on opacity:

1	1.5	2.5	4	6
Negligible amount	Relatively low amount	Medium amount	Relatively high amount	Extremely high amount

Opacity: < 20% or $\geq 20\%$ or $\geq 30\%$ $\geq 40\%$ $\geq 50\%$
 NSPS Limit NSPS Limit
 (where NSPS opacity limit is < 20%)

Determining Volume of Release based on CEMS or source testing:

Use excess emission ratio: Ratio of Emissions to Permitted Emission Limit, r

<u>Source & pollutant info</u>	<u>Emissions/(Permit limit)</u>	<u>Adjustment to Base Penalty</u>
Minor sources:	$r < 1.2$	(none)
<i>(all pollutants are minor)</i>	$r \geq 1.2$	proportional to r
Major & SM sources:		
Minor pollutant	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to r
“Threshold” pollutant*	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to r
Major pollutant	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to r

Hazardous Air Pollutant (HAP) – see Part I.B.2 Toxicity of Release (2X multiplier)

**Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations**

For: Facility - FIN AXXXX - Permit APXXXX-XXXX

Violation: NAC445B.275(1)(c) - Failed Source Test - Other Pollutant

NOAV: 9999B

I. Gravity Component

A. Base Penalty: \$1,000 or as specified in the Penalty Table = \$ 3,000

B. Extent of Deviation – Deviation Factors:

1. Volume of Release:

A. For CEMS or source testing, see Guidelines on page 3.

Adjustment to Base Penalty = 3.5

B. For opacity, see Guidelines on page 3 and refer to table below.

1	1.5	2.5	4	6
Negligible amount	Relatively low amount	Medium amount	Relatively high amount	Extremely high amount

Adjustment to Base Penalty = 1

2. Toxicity of Release: Hazardous Air Pollutant (if applicable)

Adjustment to Base Penalty = 2

3. Special Environmental/Public Health Risk (proximity to sensitive receptor):

1	2	3	4
Negligible amount	Medium amount	Relatively high amount	Extremely high amount

Adjustment to Base Penalty = 1

Deviation Factors 1 x 2 x 3: 7

C. Adjusted Base Penalty: Base Penalty (A) x Deviation Factors (B) = \$21,000

D. Multiple Emission Unit Violations or Recurring Events:

$$\frac{\$ 21,000}{\text{Dollar Amount}} \times \frac{1}{\text{Number of Events}} \times \frac{1}{\text{Number of Systems}} = \underline{\$21,000} \text{ Total Gravity Fine}$$

**Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations**

II. Economic Benefit

A.	\$ <u> -</u>	+	\$ <u> -</u>	=	\$ <u> -</u>
	Delayed Costs		Avoided Costs		Economic Benefit
Subtotal	\$ <u> 21,000 </u>	+	\$ <u> -</u>	=	\$ <u> 21,000 </u>
	Total Gravity Fine		Economic Benefit		Fine Subtotal

III. Penalty Adjustment Factors

A. Mitigating Factors	<u>0%</u>
B. History of Non-compliance	
1. Similar Violations (NOAVs) in previous 5 years:	
Within previous year (12 months) = 3X (+300%)	
Within previous three years (36 months) = 2X (+200%)	
Occurring over three years before = 1.5X (+150%)	<u>0%</u>
2. All Recent Violations (NOAVs) in previous 5 years:	
(+5%) X (Number of recent Violations) = 5% X 0 =	<u>0%</u>
Total Penalty Adjustment Factors - Sum of A & B:	<u>0%</u>

IV. Total Penalty

\$ <u> 21,000 </u>	x	<u> 0% </u>	=	\$ <u> -</u>
Penalty Subtotal (from Part II)		Total Adjustment Factors		Total Adjustment
\$ <u> 21,000 </u>	+	\$ <u> -</u>	=	\$ <u> 21,000.00 </u>
Penalty Subtotal (from Part II)		Penalty Increase or Decrease		Total Penalty

Assessed by: 0

Date: 1/0/1900

**Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations**

Guidelines for I.A.1, Gravity Component: Potential for Harm, Volume of Release

Determining Volume of Release based on opacity:

1	1.5	2.5	4	6
Negligible amount	Relatively low amount	Medium amount	Relatively high amount	Extremely high amount

Opacity: < 20% or $\geq 20\%$ or $\geq 30\%$ $\geq 40\%$ $\geq 50\%$
 NSPS Limit NSPS Limit
 (where NSPS opacity limit is < 20%)

Determining Volume of Release based on CEMS or source testing:

Use excess emission ratio: Ratio of Emissions to Permitted Emission Limit, r

<u>Source & pollutant info</u>	<u>Emissions/(Permit limit)</u>	<u>Adjustment to Base Penalty</u>
Minor sources:	$r < 1.2$	(none)
<i>(all pollutants are minor)</i>	$r \geq 1.2$	proportional to r
Major & SM sources:		
Minor pollutant	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to r
“Threshold” pollutant*	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to r
Major pollutant	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to r

Hazardous Air Pollutant (HAP) – see Part I.B.2 Toxicity of Release (2X multiplier)

Appendix C: Proposed Penalty Practice- Case 1

9.10 Failed Source Test

9.10.1 What is covered-Including, but not limited to:

A source test that exceeds an allowable emission limit or if a facility stops source testing due to potentially failing results. The emission limits can be state or federal emission limits. Source tests are a demonstration of compliance and until a facility shows they are back in compliance, they are assumed to be in continuing noncompliance.

9.10.2 NAC(s) Related to Violation-Including, but not limited to:

NAC 445B.275 Violations: Acts constituting; notice.

NAC 445B.252 Testing and sampling.

9.10.3 Why it matters

Source testing is the primary way the agency determines if a facility exceeds the permitted emission limits. That in turn protects the air quality of the State by giving the Division real data to manage air resources. The purpose of source testing is to directly assess the extent of air pollution emitted and to evaluate the effectiveness of emission control strategies. It is a real time snapshot of exactly what the system being tested is releasing when it operates.

9.10.4 Aggravating Factors

Aggravating factors will be added together to provide a total increase to the base penalty. There are no violation specific aggravating factors for this violation; general aggravating factors still apply. General aggravating factors can be found in section 8.3.

9.10.5 Mitigating Factors

Mitigating factors will be added together to provide a total increase to the base penalty. There are no violation specific mitigating factors for this violation; general mitigating factors still apply. General aggravating factors can be found in section 8.4.

9.10.6 Base Penalty and Base Multipliers

Base penalty amount by source is listed in the table below. There are no base multipliers for this violation per failed pollutant up to 120% of the limit. Above 120% of the limit, the base multiplier will be per failed pollutant, and the percent of the limit will be converted to a ratio by which the base penalty will be multiplied. For example, a source that failed for PM_{2.5} by 236%. Base penalty will be multiplied by 2.36. This violation will be considered to have occurred since the day after the last valid source test with passing results to the date of the next passing source test for the purposes of the max statutory penalty.

Class I	SM-80	Mercury	Class II	Class II General/General Temp & SAD
\$6,000	\$5,000	\$4,000	\$3,000	\$1,000

9.10.7 Total Cap

Max amount assessed per failed pollutant per test event. Each failed pollutant will be added together for the final penalty with no total max cap. Increases as shown below for each previous noncompliance of a similar type in the previous 60 months until the fourth violation is reached at which point there is no cap.

Previous instances of Noncompliance	Class 1	SM-80	Mercury	Class 2	Class 2 General/General Temp & SAD
0	\$36,000	\$30,000	\$24,000	\$18,000	\$6,000
1	\$54,000	\$45,000	\$36,000	\$27,000	\$9,000
2	\$72,000	\$60,000	\$48,000	\$36,000	\$12,000
3	No Cap	No Cap	No Cap	No Cap	No Cap

Facility	Test Facility
FIN	AXXXX
Source Type	SM-80
Violation	Failed Source Test
NOAV #	9999A and 9999B

$$\text{Gravity Component} = \text{BP} \times \text{BM} \times (1 + \text{AF} - \text{MF} + \text{CH})$$

BP=Base Penalty **BM=Base Multiplier** **AF=Aggravating Factor** **MF=Mitigating Factor** **CH=Compliance History**

There are multiple components in aggravating factors and to get the total aggravating factor all the components are added together. This is the same for mitigating factors and compliance history.

NOAV 9999A

Item	Explanation	Amount/Ratio
Base Penalty (BP)	Base Penalty for a Failed Source Test for an SM-80 is \$5,000.	\$5,000
Base Multiplier(s) (BM)	The facility failed for VOC by 900% of the limit. Above 120% of the limit, the base multiplier will be per failed pollutant, and the percent of the limit will be converted to a ratio by which the base penalty will be multiplied.	9
Negligence/ Willfulness (AF)	N/A	0
Public Health Risk (AF)	N/A	0
Environmental Risk (AF)	N/A	0
Hazardous Air Pollutants (AF)	N/A	0
Failing a Federal Limit (AF)	N/A	0
Falsification (AF)	N/A	0
Effort to Comply (MF)	The facility responded quickly with a thorough investigation and scheduled another source test within 45 days.	0.1
Self-Reporting (MF)	The facility sent the Division the appropriate forms thoroughly completed with corrective actions taken and a detailed root cause analysis on time and unprovoked	0.25
Violation not of the same type (CH)	The facility has no prior violations in the last 60 months.	0
Violation of the same type (CH)	The facility has no prior violations in the last 60 months.	0

$$\text{Gravity Component} = \text{BP} \times \text{BM} \times (1 + \text{AF} - \text{MF} + \text{CH})$$

Gravity Component =	\$5,000	x	9	x	(1 + 0 - 0.35 + 0)	=	\$29,250
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Max Cap	Max Cap for a SM-80 for a failed source test is the max amount per failed pollutant per test event capped at \$30,000. No cap applies in this case.	N/A
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Facility	Test Facility
FIN	AXXXX
Source Type	SM-80
Violation	Failed Source Test
NOAV #	9999A and 9999B

$$\text{Gravity Component} = \text{BP} \times \text{BM} \times (1 + \text{AF} - \text{MF} + \text{CH})$$

BP=Base Penalty **BM=Base Multiplier** **AF=Aggravating Factor** **MF=Mitigating Factor** **CH=Compliance History**

There are multiple components in aggravating factors and to get the total aggravating factor all the components are added together. This is the same for mitigating factors and compliance history.

NOAV 9999b

Item	Explanation	Amount/Ratio
Base Penalty (BP)	Base Penalty for a Failed Source Test for an SM-80 is \$5,000.	\$5,000
Base Multiplier(s) (BM)	The facility failed for Toluene by 350% of the limit. Above 120% of the limit, the base multiplier will be per failed pollutant, and the percent of the limit will be converted to a ratio by which the base penalty will be multiplied.	3.5
Negligence/ Willfulness (AF)	N/A	0
Public Health Risk (AF)	N/A	0
Environmental Risk (AF)	N/A	0
Hazardous Air Pollutants (AF)	Toluene is a HAP.	0.5
Failing a Federal Limit (AF)	N/A	0
Falsification (AF)	N/A	0
Effort to Comply (MF)	The facility responded quickly with a thorough investigation and scheduled another source test within 45 days.	0.1
Self-Reporting (MF)	The facility sent the Division the appropriate forms thoroughly completed with corrective actions taken and a detailed root cause analysis on time and unprovoked	0.25
Violation not of the same type (CH)	The facility has no prior violations in the last 60 months.	0
Violation of the same type (CH)	The facility has no prior violations in the last 60 months.	0

$$\text{Gravity Component} = \text{BP} \times \text{BM} \times (1 + \text{AF} - \text{MF} + \text{CH})$$

Gravity Component =	\$5,000	x	3.5	x	(1 + 0.5 - 0.35 + 0)	=	\$20,125
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Max Cap	Max Cap for a SM-80 for a failed source test is the max amount per failed pollutant per test event capped at \$30,000. No cap applies in this case.	N/A
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Appendix D: Current Penalty Matrix-Case 2

**Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations**

For: Facility - FIN AXXXX - Permit APXXXX-XXXX

Violation: NAC445B.275(1)(e) - Failure to Comply with Monitoring, Recordkeeping, Reporting, or Compliance Certification Requirements

NOAV: 9999

I. Gravity Component

A. Base Penalty: \$1,000 or as specified in the Penalty Table = \$ 600

B. Extent of Deviation – Deviation Factors:

1. Volume of Release:

A. For CEMS or source testing, see Guidelines on page 3.

Adjustment to Base Penalty = 1

B. For opacity, see Guidelines on page 3 and refer to table below.

1	1.5	2.5	4	6
Negligible amount	Relatively low amount	Medium amount	Relatively high amount	Extremely high amount

Adjustment to Base Penalty = 1

2. Toxicity of Release: Hazardous Air Pollutant (if applicable)

Adjustment to Base Penalty = 1

3. Special Environmental/Public Health Risk (proximity to sensitive receptor):

1	2	3	4
Negligible amount	Medium amount	Relatively high amount	Extremely high amount

Adjustment to Base Penalty = 1

Deviation Factors 1 x 2 x 3: 1

C. Adjusted Base Penalty: Base Penalty (A) x Deviation Factors (B) = \$600

D. Multiple Emission Unit Violations or Recurring Events:

$$\frac{\$ 600}{\text{Dollar Amount}} \times \frac{508}{\text{Number of Events}} \times \frac{1}{\text{Number of Facilities}} = \underline{\$304,800} \text{ Total Gravity Fine}$$

**Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations**

II. Economic Benefit

A.	\$ <u> -</u>	+	\$ <u> -</u>	=	\$ <u> -</u>
	Delayed Costs		Avoided Costs		Economic Benefit
Subtotal	\$ <u>304,800</u>	+	\$ <u> -</u>	=	\$ <u>304,800</u>
	Total Gravity Fine		Economic Benefit		Fine Subtotal

III. Penalty Adjustment Factors

A. Mitigating Factors	<u>0%</u>
B. History of Non-compliance	
1. Similar Violations (NOAVs) in previous 5 years:	
Within previous year (12 months) = 3X (+300%)	
Within previous three years (36 months) = 2X (+200%)	
Occurring over three years before = 1.5X (+150%)	<u>0%</u>
2. All Recent Violations (NOAVs) in previous 5 years:	
(+5%) X (Number of recent Violations) = 5% X 0 =	<u>0%</u>
 Total Penalty Adjustment Factors - Sum of A & B:	 <u>0%</u>

IV. Total Penalty

\$ <u>304,800</u>	x	<u>0%</u>	=	\$ <u> -</u>
Penalty Subtotal (from Part II)		Total Adjustment Factors		Total Adjustment
\$ <u>304,800</u>	+	\$ <u> -</u>	=	\$ <u>304,800.00</u>
Penalty Subtotal (from Part II)		Penalty Increase or Decrease		Total Penalty

Assessed by: 0

Date: 1/0/1900

**Nevada Division of Environmental Protection
Bureau of Air Pollution Control
Administrative Fine Calculation Worksheet for Emissions Violations**

Guidelines for I.A.1, Gravity Component: Potential for Harm, Volume of Release

Determining Volume of Release based on opacity:

1	1.5	2.5	4	6
Negligible amount	Relatively low amount	Medium amount	Relatively high amount	Extremely high amount

Opacity: < 20% or $\geq 20\%$ or $\geq 30\%$ $\geq 40\%$ $\geq 50\%$
 NSPS Limit NSPS Limit
 (where NSPS opacity limit is < 20%)

Determining Volume of Release based on CEMS or source testing:

Use excess emission ratio: Ratio of Emissions to Permitted Emission Limit, r

<u>Source & pollutant info</u>	<u>Emissions/(Permit limit)</u>	<u>Adjustment to Base Penalty</u>
Minor sources:	$r < 1.2$	(none)
<i>(all pollutants are minor)</i>	$r \geq 1.2$	proportional to r
Major & SM sources:		
Minor pollutant	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to r
“Threshold” pollutant*	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to r
Major pollutant	$r < 1.2$	(none)
	$r \geq 1.2$	proportional to r

Hazardous Air Pollutant (HAP) – see Part I.B.2 Toxicity of Release (2X multiplier)

Appendix E: Proposed Penalty Practice- Case 2

9. Penalty Amounts by Violation Type

All violations may also be subject to general multipliers from section 8 in addition to any multipliers specifically called out in the Violation Type.

9.1 Failure to Conduct Required Monitoring and Recordkeeping

9.1.1 What is covered-Including, but not limited to:

This violation covers permit required inspections, visible emissions observations, initial opacity compliance demonstrations (IOCD), EPA Method 9s, monitoring differential pressures, temperatures, flow rates, and any other monitoring-type activities. These monitoring activities must be properly documented.

Additionally, this violation covers any instance where records required by the permit were not kept. This includes instances where required records cannot be reviewed during an inspection, as contemporaneous records must be kept and made available during an inspection. Additionally, any instance where the method of recordkeeping produced an inaccurate or erroneous result. For example, the record was back calculated and not based on real data.

9.1.2 NAC(s) Related to Violation-Including, but not limited to:

NAC 445B.275 Violations: Acts constituting; notice.

NAC 445B.281 Violations: Classification; administrative fines.

9.1.3 Why it matters

Air pollution control devices protect human health by limiting harmful emissions. It is important for facilities to check pollution control devices, for example silo bin vents and water sprayers, on a regular basis to ensure they are working properly. Periodic visible emission observations help ensure controls like baghouses, wet scrubbers, and water sprayers are working properly. For example, high visible emissions from a stack controlled by a baghouse could indicate baghouse filter bags need to be replaced; and elevated visible emissions from a stack controlled by wet scrubber could indicate a water pump or water nozzle in the scrubber needs repair. The various monitoring activities and their records help ensure the facility operates under the permit conditions and allows the Division to properly manage air resources for the state.

Permit conditions require facilities to maintain records to demonstrate their compliance with emission limits. Permits may also require facilities to maintain records demonstrating monthly visible emission observations, required maintenance, and that air pollution control equipment checks were conducted. Without accurate and detailed recordkeeping, a facility cannot demonstrate it is complying with permit conditions and the NAAQS. Additionally,

without accurate and complete records, it is impossible to know whether a facility is exceeding or deviating from permit limits and conditions which interferes with the Division's ability to manage air resources for the state.

9.1.4 Aggravating Factors

Aggravating factors will be added together to provide a total increase to the base penalty. There are no violation specific aggravating factors for this violation; general aggravating factors still apply. General aggravating factors can be found in section 8.3.

9.1.5 Mitigating Factors

$$\text{Gravity Component} = \text{BP} \times \text{BM} \times (1 + \text{AF} - (\text{MF}_{\text{general}} + \text{MF}_{\text{specific}}) + \text{CH})$$

Factors will be added together to provide a total decrease to the base penalty. General mitigating factors can be found in section 8.4. Specific mitigating factors for this penalty can be found below.

- The facility can provide an alternative demonstration of compliance at time of inspection (0.2)

9.1.6 Base Penalty and Base Multipliers

Base penalty amount by source is listed in the table below. The base multipliers for this violation are per event per recordkeeping requirement as described in the permit. For those permit classes subject to minor violations, this table will be used once the facility has had three minor violations issued per NAC 445B.281(2) and 445B.281(3). Initial compliance demonstrations are not minor violations.

Recordkeeping basis	Class I	SM-80	Mercury	Class II	Class II General/General Temp & SAD
Daily	\$600	\$400	\$400	\$250	\$200
Weekly	\$700	\$500	\$500	\$350	\$300
Monthly	\$900	\$750	\$750	\$500	\$400
Quarterly	\$1,500	\$1,000	\$1,000	\$750	\$500
Annual/Initial Demonstration	\$3,000	\$2,000	\$2,000	\$1,000	\$800

9.1.7 Total Cap

Max amount assessed in one enforcement action. Failure to conduct required recordkeeping or monitoring and failure to conduct required reporting will have a combined cap as shown below. Increases as shown below for each previous noncompliance of a similar type in the previous 60 months until the fourth violation is reached at which point there is no cap.

Previous instances of Noncompliance	Class I	SM-80	Mercury	Class II	Class II General/General Temp & SAD
0	\$100,000	\$75,000	\$75,000	\$40,000	\$25,000
1	\$150,000	\$112,500	\$112,500	\$60,000	\$37,500
2	\$200,000	\$150,000	\$150,000	\$80,000	\$50,000
3	No Cap	No Cap	No Cap	No Cap	No Cap

Facility	Test Facility
FIN	AXXXX
Source Type	Class II
Violation	Failure to conduct required monitoring and recordkeeping
NOAV #	9999

$$\text{Gravity Component} = \text{BP} \times \text{BM} \times (1 + \text{AF} - \text{MF} + \text{CH})$$

BP=Base Penalty **BM=Base Multiplier** **AF=Aggravating Factor** **MF=Mitigating Factor** **CH=Compliance History**

There are multiple components in aggravating factors and to get the total aggravating factor all the components are added together. This is the same for mitigating factors and compliance history.

NOAV 9999A-daily

Item	Explanation	Amount/Ratio
Base Penalty (BP)	Base Penalty for a failure to conduct monitoring and recordkeeping for a class II daily requirement is \$250.	\$250
Base Multiplier(s) (BM)	The base multiplier is per event per recordkeeping requirement. The facility was missing 500 daily records.	500
Base Penalty (BP)	Base Penalty for a failure to conduct monitoring and recordkeeping for a class II quarterly requirement is \$750.	\$750
Base Multiplier(s) (BM)	The base multiplier is per event per recordkeeping requirement. The facility was missing 8 quarterly recordkeeping requirements	8
Negligence/ Willfulness (AF)	N/A	0
Public Health Risk (AF)	N/A	0
Environmental Risk (AF)	N/A	0
Hazardous Air Pollutants (AF)	N/A	0
Failing a Federal Limit (AF)	N/A	0
Falsification (AF)	N/A	0
Effort to Comply (MF)	The facility continuously had the same issues without noticeable improvement in compliance even though they were self reporting.	0
Self-Reporting (MF)	The facility submitted to the Division the appropriate forms, thoroughly completed including corrective actions taken and a detailed root cause analysis, meeting the timing requirements in regulations and without Division prompting.	0.25
Violation not of the same type (CH)	The facility had 3 previous violations not of the same type. Each previous violation of the same type has a 0.05 increase per violation.	0.15
Violation of the same type (CH)	The facility was issued 3 minor recordkeeping violations in the past 60 months. Each minor violation counts as 1/3 of a major violation making this equivalent to 1 previous violation of the same type.	0.5

$$\text{Gravity Component} = \text{BP} \times \text{BM} \times (1 + \text{AF} - \text{MF} + \text{CH})$$

Gravity Component =	[((\$250 x 500) + (\$750 x 8)) x (1 + 0 - 0.25 + 0.65)] =	\$183,400
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Max Cap	Max Cap for a Class II source for monitoring and recordkeeping violations is capped at \$40,000.	\$40,000
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