NEVADA DIVISION OF ENVIRONMENTAL PROTECTION

BAQP – Enforcement Branch
Monetary Penalty Information

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MINOR VIOLATION SCHEDULE

	First Offense	Second Offense	Third Offense
NAC 445B.22037, fugitive dust.....	$500	$1,000	$2,000
NAC 445B.22067, open burning.....	250	500	1,000
NAC 445B.2207, incinerator burning.....	250	500	1,000
NAC 445B.22087, odors.....	250	500	1,000
Subsection 3 or 4 of NAC 445B.232, reporting of excess emissions.....	250	500	1,000
Subsection 8 of NAC 445B.252, testing and sampling reporting.....	250	500	1,000
Subsection 2 of NAC 445B.265, reporting of monitoring systems.....	250	500	1,000
Paragraph (e) of subsection 1 of NAC 445B.275, recordkeeping, monitoring, reporting or compliance certification.....	250	500	1,000
NAC 445B.331, change of location.....	250	500	1,000

The penalties for major violations are determined through the use of a penalty matrix that NDEP uses to calculate the recommended penalty amount. This amount is then presented to the SEC for a final determination.

The penalty matrix and worksheet were developed by NDEP and the SEC pursuant to EPA guidelines. By establishing an unbiased and consistent approach to establishing penalties, the process was designed to ensure an adequate level of deterrence and to create a level playing field for all facilities. The penalty matrix establishes a base penalty for each violation type by permit class, with smaller base penalties for sources with fewer emissions and higher base penalties for higher emitting sources. The base penalty is then subject to a penalty worksheet that takes into consideration the gravity of the violation for various components such as, opacity, toxicity, or public health risk. Each component is associated with a specific multiplier. The multipliers are applied to the base penalty, adjusting the final penalty amount that BAPC recommends to the SEC.

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

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**

ADMINISTRATIVE PENALTY MATRIX - Violations Related to Source Tests & CEMS Audits

(Note that the Penalty Worksheet is used to augment or adjust some penalties)

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

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%) _____ %

2. 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%)	≥ 20% or NSPS limit	≥ 30%	≥ 40%	≥ 50%

Determining Volume of Release based on CEMS or source testing:

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

Source & pollutant info	Emissions/(Permit limit)	Adjustment to Base Penalty
Minor sources:	$r < 1.2$	(none)
(*all pollutants are minor*)	$\mathbf{r \geq 1.2}$	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)