

WIPP ACO 120614 Penalty Calculations Worksheets

Violation # 1

Facility: Waste Isolation Pilot Plant

Date violation observed: March 13, 2014, date of AIB Fire Report release

Citation/Violation: The Permittees' failure to maintain and operate WIPP to minimize the possibility of a fire which could threaten human health or the environment is a violation of Permit Condition 2.1, Design and Operation of the Facility, and 20.4.1.500 NMAC, incorporating 40 CFR § 264.31.

Location: WIPP facility

PENALTY AMOUNT:

1.	Gravity based penalty from matrix	\$	10,000
	(a) Potential for harm		major
	(b) Extent of deviation		major
	(c) Number of counts		12
2.	Multiple count adjustment (multiply line 1 by counts)	\$	120,000
3a	Multiday penalty from matrix	\$	5,000
3b	Days of noncompliance (or other appropriate number)		60
3c	Multiday adjustment (multiply line 3b minus 1 by line 3a)	\$	295,000
4a	Multiday penalty from matrix		
4b	Days of noncompliance (or other appropriate number)		0
4c	Multiday adjustment (multiply line 4b by line 4a)	\$	-
5a	Multiday penalty from matrix		
5b	Days of noncompliance (or other appropriate number)		0
5c	Multiday adjustment (multiply line 5b by line 5a)	\$	-
6.	Add lines 2, 3c, 4c, and 5c.....	\$	415,000
7.	Percent increase/decrease for good faith		5%
8.	Percent increase for willfulness/negligence		15%
9.	Percent increase for history of noncompliance		5%
10.	Total percentage (add lines 7 through 9)		25%
11.	Multiply line 6 by line 10	\$	103,750
12.	Economic benefit penalty		
13.	Add lines 6, 11, and 12 for total penalty amount for this violation	\$	518,750

Violation # 2

Facility: Waste Isolation Pilot Plant

Date violation observed: February 19, 2014, five days after fire.

Citation/Violation: The Respondents' failure to submit a written notice concerning the fire within five calendar days of the time the Respondents became aware of the circumstances is a violation of Permit Condition 1.7.13.3, Written Notice, and 20.4.1.900 NMAC, incorporating 40 CFR § 270.30(l)(6)(iii); and 1.7.13.2, Description of Occurrence; 20.4.1.900 NMAC, incorporating 40 CFR §270.30(l)(6)(ii).

Location: NA

PENALTY AMOUNT:

1.	Gravity based penalty from matrix	\$	10,000
	(a) Potential for harm		major
	(b) Extent of deviation		major
	(c) Number of counts		1
2.	Multiple count adjustment (multiply line 1 by counts)	\$	10,000
3a	Multiday penalty from matrix	\$	5,000
3b	Days of noncompliance (or other appropriate number)		60
3c	Multiday adjustment (multiply line 3b minus 1 by line 3a)	\$	295,000
4a	Multiday penalty from matrix		
4b	Days of noncompliance (or other appropriate number)		0
4c	Multiday adjustment (multiply line 4b by line 4a)	\$	-
5a	Multiday penalty from matrix		
5b	Days of noncompliance (or other appropriate number)		0
5c	Multiday adjustment (multiply line 5b by line 5a)	\$	-
6.	Add lines 2, 3c, 4c, and 5c.....	\$	305,000
7.	Percent increase/decrease for good faith		5%
8.	Percent increase for willfulness/negligence		15%
9.	Percent increase for history of noncompliance		5%
10.	Total percentage (add lines 7 through 9)		25%
11.	Multiply line 6 by line 10	\$	76,250
12.	Economic benefit penalty		
13.	Add lines 6, 11, and 12 for total penalty amount for this violation	\$	381,250

Violation # 3

Facility: Waste Isolation Pilot Plant

Date violation observed: March 13, 2014, AIB Fire Report release date

Citation/Violation: The Respondents' failure to conduct adequate personnel training is a violation of Permit Condition 2.8, Personnel Training; 2.8.2, Personnel Training Requirements, referencing 20.4.1.500 NMAC, incorporating 40 CFR § 264.16; and F-1e, Training for Emergency Response.

Location: NA

PENALTY AMOUNT:

1.	Gravity based penalty from matrix	\$	5,000
	(a) Potential for harm		moderate
	(b) Extent of deviation		moderate
	(c) Number of counts		1
2.	Multiple count adjustment (multiply line 1 by counts)	\$	5,000
3a	Multiday penalty from matrix	\$	2,000
3b	Days of noncompliance (or other appropriate number)		60
3c	Multiday adjustment (multiply line 3b minus 1 by line 3a)	\$	118,000
4a	Multiday penalty from matrix		
4b	Days of noncompliance (or other appropriate number)		0
4c	Multiday adjustment (multiply line 4b by line 4a)	\$	-
5a	Multiday penalty from matrix		
5b	Days of noncompliance (or other appropriate number)		0
5c	Multiday adjustment (multiply line 5b by line 5a)	\$	-
6.	Add lines 2, 3c, 4c, and 5c.....	\$	123,000
7.	Percent increase/decrease for good faith		5%
8.	Percent increase for willfulness/negligence		15%
9.	Percent increase for history of noncompliance		5%
10.	Total percentage (add lines 7 through 9)		25%
11.	Multiply line 6 by line 10	\$	30,750
12.	Economic benefit penalty		
13.	Add lines 6, 11, and 12 for total penalty amount for this violation	\$	153,750

Violation # 4

Facility: Waste Isolation Pilot Plant

Date violation observed: March 13, 2014, AIB Fire Report release date

Citation/Violation: The Permittees' failure to have an internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel is a violation of Permit Conditions: 2.10.1, Required Equipment; and 2.10.1.1, Internal Communications, referencing 20.4.1.500 NMAC, incorporating 40 C.F.R. § 264.32(a). (Associated applicable requirement - 40 C.F.R. § 264.32)

Location: WIPP underground

PENALTY AMOUNT:

1.	Gravity based penalty from matrix	\$	9,000
	(a) Potential for harm		major
	(b) Extent of deviation		moderate
	(c) Number of counts		14
2.	Multiple count adjustment (multiply line 1 by counts)	\$	126,000
3a	Multiday penalty from matrix	\$	4,500
3b	Days of noncompliance (or other appropriate number)		60
3c	Multiday adjustment (multiply line 3b minus 1 by line 3a)	\$	265,500
4a	Multiday penalty from matrix		
4b	Days of noncompliance (or other appropriate number)		0
4c	Multiday adjustment (multiply line 4b by line 4a)	\$	-
5a	Multiday penalty from matrix		
5b	Days of noncompliance (or other appropriate number)		0
5c	Multiday adjustment (multiply line 5b by line 5a)	\$	-
6.	Add lines 2, 3c, 4c, and 5c	\$	391,500
7.	Percent increase/decrease for good faith		5%
8.	Percent increase for willfulness/negligence		15%
9.	Percent increase for history of noncompliance		5%
10.	Total percentage (add lines 7 through 9)		25%
11.	Multiply line 6 by line 10	\$	97,875
12.	Economic benefit penalty		
13.	Add lines 6, 11, and 12 for total penalty amount for this violation	\$	489,375

Violation # 5

Facility: Waste Isolation Pilot Plant

Date violation observed: March 13, 2014, AIB Fire Report release date

Citation/Violation: The Permittees' failure to test and maintain the equipment specified in Permit Section 2.10.1, as necessary, to assure its proper operation in time of emergency, as specified in Permit Attachment E is a violation of Permit Conditions: 2.10.2, Testing and Maintenance of Equipment; and E-1a, General Inspection Requirements, referencing 20.4.1.500 NMAC, incorporating 40 C.F.R. § 264.33. (Associated applicable requirement - 40 C.F.R. § 264.15(b)(4))

Location: WIPP underground

PENALTY AMOUNT:

1.	Gravity based penalty from matrix	\$	9,000
	(a) Potential for harm		major
	(b) Extent of deviation		moderate
	(c) Number of counts		43
2.	Multiple count adjustment (multiply line 1 by counts)	\$	387,000
3a	Multiday penalty from matrix	\$	4,500
3b	Days of noncompliance (or other appropriate number)		60
3c	Multiday adjustment (multiply line 3b minus 1 by line 3a)	\$	265,500
4a	Multiday penalty from matrix		
4b	Days of noncompliance (or other appropriate number)		0
4c	Multiday adjustment (multiply line 4b by line 4a)	\$	-
5a	Multiday penalty from matrix		
5b	Days of noncompliance (or other appropriate number)		0
5c	Multiday adjustment (multiply line 5b by line 5a)	\$	-
6.	Add lines 2, 3c, 4c, and 5c.....	\$	652,500
7.	Percent increase/decrease for good faith		5%
8.	Percent increase for willfulness/negligence		15%
9.	Percent increase for history of noncompliance		5%
10.	Total percentage (add lines 7 through 9)		25%
11.	Multiply line 6 by line 10	\$	163,125
12.	Economic benefit penalty		
13.	Add lines 6, 11, and 12 for total penalty amount for this violation	\$	815,625

Violation # 6

Facility: Waste Isolation Pilot Plant

Date violation observed: April 11, 2014

Citation/Violation: The Permittees' failure to immediately implement the Contingency Plan as specified in Permit Attachment D when there was a fire that threatened human health or the environment is a violation of Permit Conditions: 2.12.1, Implementation of [Contingency] Plan, referencing 20.4.1.500 NMAC, incorporating 40 C.F.R. §264.51(b); D-3, Implementation, referencing 20.4.1.500 NMAC, incorporating 40 C.F.R. §264.51(b); and D-4a(1), Initial Emergency Response and Alerting the RCRA Emergency Coordinator.

Location: NA

PENALTY AMOUNT:

1.	Gravity based penalty from matrix	\$	10,000
	(a) Potential for harm		major
	(b) Extent of deviation		major
	(c) Number of counts		1
2.	Multiple count adjustment (multiply line 1 by counts)	\$	10,000
3a	Multiday penalty from matrix	\$	5,000
3b	Days of noncompliance (or other appropriate number)		60
3c	Multiday adjustment (multiply line 3b minus 1 by line 3a)	\$	295,000
4a	Multiday penalty from matrix		
4b	Days of noncompliance (or other appropriate number)		0
4c	Multiday adjustment (multiply line 4b by line 4a)	\$	-
5a	Multiday penalty from matrix		
5b	Days of noncompliance (or other appropriate number)		0
5c	Multiday adjustment (multiply line 5b by line 5a)	\$	-
6.	Add lines 2, 3c, 4c, and 5c.....	\$	305,000
7.	Percent increase/decrease for good faith		5%
8.	Percent increase for willfulness/negligence		15%
9.	Percent increase for history of noncompliance		5%
10.	Total percentage (add lines 7 through 9)		25%
11.	Multiply line 6 by line 10	\$	76,250
12.	Economic benefit penalty		
13.	Add lines 6, 11, and 12 for total penalty amount for this violation	\$	381,250

Violation # 7

Facility: Waste Isolation Pilot Plant

Date violation observed: April 22, 2014, AIB Radiological Phase I Report release date

Citation/Violation: The Respondents' failure to design, maintain, and operate the Facility in a manner to minimize the possibility of a release to the atmosphere of TRU mixed waste or mixed waste constituents and to prevent undue exposure of personnel to hazardous waste is a violation of Permit Conditions: 2.1, Design and Operation of Facility, referencing 20.4.1.500 NMAC, incorporating 40 CFR §264.31; and 2.11, Hazards Prevention, referencing 20.4.1.900 NMAC, incorporating 40 C.F.R. § 270.14(b)(8).

Location: NA

PENALTY AMOUNT:

1.	Gravity based penalty from matrix	\$	10,000
	(a) Potential for harm		major
	(b) Extent of deviation		major
	(c) Number of counts		5
2.	Multiple count adjustment (multiply line 1 by counts)	\$	50,000
3a	Multiday penalty from matrix	\$	5,000
3b	Days of noncompliance (or other appropriate number)		60
3c	Multiday adjustment (multiply line 3b minus 1 by line 3a)	\$	295,000
4a	Multiday penalty from matrix		
4b	Days of noncompliance (or other appropriate number)		0
4c	Multiday adjustment (multiply line 4b by line 4a)	\$	-
5a	Multiday penalty from matrix		
5b	Days of noncompliance (or other appropriate number)		0
5c	Multiday adjustment (multiply line 5b by line 5a)	\$	-
6.	Add lines 2, 3c, 4c, and 5c.....	\$	345,000
7.	Percent increase/decrease for good faith		5%
8.	Percent increase for willfulness/negligence		15%
9.	Percent increase for history of noncompliance		5%
10.	Total percentage (add lines 7 through 9)		25%
11.	Multiply line 6 by line 10	\$	86,250
12.	Economic benefit penalty		
13.	Add lines 6, 11, and 12 for total penalty amount for this violation	\$	431,250

Violation # 8

Facility: Waste Isolation Pilot Plant

Date violation observed: February 15, 2014, 24 hours after the radiological release

Citation/Violation: The Respondents' failure to provide oral notification to NMED within 24 hours of becoming aware of the Release is a violation of Permit Conditions: 1.7.13.1.ii, Oral Reporting, referencing 20.4.1.900 NMAC, incorporating 40 C.F.R. §270.30(l)(6)(i); and 1.7.13.2, Description of Occurrence, referencing 20.4.1.900 NMAC, incorporating 40 C.F.R. §270.30(l)(6)(ii).

Location: NA

PENALTY AMOUNT:

1.	Gravity based penalty from matrix	\$	10,000
	(a) Potential for harm		major
	(b) Extent of deviation		major
	(c) Number of counts		1
2.	Multiple count adjustment (multiply line 1 by counts)	\$	10,000
3a	Multiday penalty from matrix	\$	5,000
3b	Days of noncompliance (or other appropriate number)		6
3c	Multiday adjustment (multiply line 3b minus 1 by line 3a)	\$	25,000
4a	Multiday penalty from matrix		
4b	Days of noncompliance (or other appropriate number)		0
4c	Multiday adjustment (multiply line 4b by line 4a)	\$	-
5a	Multiday penalty from matrix		
5b	Days of noncompliance (or other appropriate number)		0
5c	Multiday adjustment (multiply line 5b by line 5a)	\$	-
6.	Add lines 2, 3c, 4c, and 5c.....	\$	35,000
7.	Percent increase/decrease for good faith		5%
8.	Percent increase for willfulness/negligence		15%
9.	Percent increase for history of noncompliance		5%
10.	Total percentage (add lines 7 through 9)		25%
11.	Multiply line 6 by line 10	\$	8,750
12.	Economic benefit penalty		
13.	Add lines 6, 11, and 12 for total penalty amount for this violation	\$	43,750

Violation # 9

Facility: Waste Isolation Pilot Plant

Date violation observed: February 19, 2014, 5 days after the radiological release

Citation/Violation: The Respondents' failure to submit a written notice regarding the Release within five (5) calendar days of the time the Permittees become aware of the circumstances is a violation of Permit Conditions: 1.7.13.3, Written Notice, referencing 20.4.1.900 NMAC, incorporating 40 C.F.R. §270.30(l)(6)(iii); and 1.7.13.2, Description of Occurrence, referencing 20.4.1.900 NMAC, incorporating 40 C.F.R. §270.30(l)(6)(ii).

Location: NA

PENALTY AMOUNT:

1.	Gravity based penalty from matrix	\$	10,000
	(a) Potential for harm		major
	(b) Extent of deviation		major
	(c) Number of counts		1
2.	Multiple count adjustment (multiply line 1 by counts)	\$	10,000
3a	Multiday penalty from matrix	\$	5,000
3b	Days of noncompliance (or other appropriate number)		60
3c	Multiday adjustment (multiply line 3b minus 1 by line 3a)	\$	295,000
4a	Multiday penalty from matrix		
4b	Days of noncompliance (or other appropriate number)		0
4c	Multiday adjustment (multiply line 4b by line 4a)	\$	-
5a	Multiday penalty from matrix		
5b	Days of noncompliance (or other appropriate number)		0
5c	Multiday adjustment (multiply line 5b by line 5a)	\$	-
6.	Add lines 2, 3c, 4c, and 5c.....	\$	305,000
7.	Percent increase/decrease for good faith		5%
8.	Percent increase for willfulness/negligence		15%
9.	Percent increase for history of noncompliance		5%
10.	Total percentage (add lines 7 through 9)		25%
11.	Multiply line 6 by line 10	\$	76,250
12.	Economic benefit penalty		
13.	Add lines 6, 11, and 12 for total penalty amount for this violation	\$	381,250

Violation # 10

Facility: Waste Isolation Pilot Plant

Date violation observed: April 11, 2014

Citation/Violation: The Respondents' failure to immediately implement the Contingency Plan as specified in Permit Attachment D when there was a release of TRU mixed or hazardous waste or hazardous waste constituents which could threaten human health or the environment is a violation of Permit Conditions: 2.12.1, Implementation of [Contingency] Plan, referencing 20.4.1.500 NMAC, incorporating 40 C.F.R. § 264.51(b); D-3, Implementation, referencing 20.4.1.500 NMAC, incorporating 40 C.F.R. §264.51(b); and D-4a(1), Initial Emergency Response and Alerting the RCRA Emergency Coordinator.

Location: NA

PENALTY AMOUNT:

1.	Gravity based penalty from matrix	.....	\$	10,000
	(a) Potential for harm	.....		major
	(b) Extent of deviation	.....		major
	(c) Number of counts	.....		1
2.	Multiple count adjustment (multiply line 1 by counts)	.....	\$	10,000
3a	Multiday penalty from matrix	.....	\$	5,000
3b	Days of noncompliance (or other appropriate number)	.....		56
3c	Multiday adjustment (multiply line 3b minus 1 by line 3a)	.....	\$	275,000
4a	Multiday penalty from matrix	.....	
4b	Days of noncompliance (or other appropriate number)	.....		0
4c	Multiday adjustment (multiply line 4b by line 4a)	.....	\$	-
5a	Multiday penalty from matrix	.....	
5b	Days of noncompliance (or other appropriate number)	.....		0
5c	Multiday adjustment (multiply line 5b by line 5a)	.....	\$	-
6.	Add lines 2, 3c, 4c, and 5c.....		\$	285,000
7.	Percent increase/decrease for good faith	.....		5%
8.	Percent increase for willfulness/negligence	.....		15%
9.	Percent increase for history of noncompliance	.....		5%
10.	Total percentage (add lines 7 through 9)	.....		25%
11.	Multiply line 6 by line 10	.....	\$	71,250
12.	Economic benefit penalty	.....	
13.	Add lines 6, 11, and 12 for total penalty amount for this violation	.....	\$	356,250

Violation # 11

Facility: Waste Isolation Pilot Plant

Date violation observed: July 7, 2014

Citation/Violation: The Respondents' acceptance, management, storage, and disposal of 508 containers of ignitable wastes is a violation of Permit Conditions: B, (Part A Application); 2.9, General Requirements for Handling Ignitable, Corrosive, Reactive, or Incompatible Wastes, referencing 20.4.1.200 NMAC, incorporating 40 CFR §§261.21 and 261.22, and referencing 20.4.1.500 NMAC, incorporating 40 C.F.R. Part 264, Appendix V; 2.3.1., Waste Analysis Plan; referencing 20.4.1.500 NMAC, incorporating 40 CFR §264.13; 2.3.3. Treatment, Storage, and Disposal Facility Waste Acceptance Criteria (TSDF-WAC); 2.3.3.7. Ignitable, Corrosive, and Reactive Wastes; 2.3.4, Permitted TRU Mixed Wastes; 3.2.1.3, Hazardous Waste Numbers; C-1b, Waste Summary Category Groups and Hazardous Waste Accepted at the WIPP Facility; and C-1c, Waste Prohibited at the WIPP Facility. (Associated applicable requirement - PC C1)

Location: NA

PENALTY AMOUNT:

1.	Gravity based penalty from matrix	.....	\$	10,000
	(a) Potential for harm	.....		major
	(b) Extent of deviation	.....		major
	(c) Number of counts	.....		508
2.	Multiple count adjustment (multiply line 1 by counts)	.....	\$	5,080,000
3a	Multiday penalty from matrix	.....	\$	5,000
3b	Days of noncompliance (or other appropriate number)	.....		60
3c	Multiday adjustment (multiply line 3b minus 1 by line 3a)	.....	\$	295,000
4a	Multiday penalty from matrix	.....	
4b	Days of noncompliance (or other appropriate number)	.....		0
4c	Multiday adjustment (multiply line 4b by line 4a)	.....	\$	-
5a	Multiday penalty from matrix	.....	
5b	Days of noncompliance (or other appropriate number)	.....		0
5c	Multiday adjustment (multiply line 5b by line 5a)	.....	\$	-
6.	Add lines 2, 3c, 4c, and 5c	.....	\$	5,375,000
7.	Percent increase/decrease for good faith	.....		5%
8.	Percent increase for willfulness/negligence	.....		15%
9.	Percent increase for history of noncompliance	.....		5%
10.	Total percentage (add lines 7 through 9)	.....		25%
11.	Multiply line 6 by line 10	.....	\$	1,343,750
12.	Economic benefit penalty	.....	
13.	Add lines 6, 11, and 12 for total penalty amount for this violation	.....	\$	6,718,750

Violation # 12

Facility: Waste Isolation Pilot Plant

Date violation observed: July 30, 2014

Citation/Violation: The Respondents' acceptance, management, storage, and disposal of 503 containers of incompatible wastes is a violation of Permit Conditions: 2.9, General Requirements for Handling Ignitable, Corrosive, Reactive, or Incompatible Wastes, referencing 20.4.1.200 NMAC, incorporating 40 CFR §§261.21 and 261.22, and referencing 20.4.1.500 NMAC, incorporating 40 CFR § 264, Appendix V; 2.3.1, Waste Analysis Plan, referencing 20.4.1.500 NMAC incorporating 40 CFR §264.13; 2.3.3, Treatment, Storage, and Disposal Facility Waste Acceptance Criteria (TSDF-WAC); 2.3.3.4, Chemical Incompatibility; and C-1c, Waste Prohibited at the WIPP Facility. (Associated applicable requirement - PC C1)

Location: NA

PENALTY AMOUNT:

1.	Gravity based penalty from matrix	.....	\$	10,000
	(a) Potential for harm	.....		major
	(b) Extent of deviation	.....		major
	(c) Number of counts	.....		503
2.	Multiple count adjustment (multiply line 1 by counts)	.....	\$	5,030,000
3a	Multiday penalty from matrix	.....	\$	5,000
3b	Days of noncompliance (or other appropriate number)	.....		60
3c	Multiday adjustment (multiply line 3b minus 1 by line 3a)	.....	\$	295,000
4a	Multiday penalty from matrix	.....	
4b	Days of noncompliance (or other appropriate number)	.....		0
4c	Multiday adjustment (multiply line 4b by line 4a)	.....	\$	-
5a	Multiday penalty from matrix	.....	
5b	Days of noncompliance (or other appropriate number)	.....		0
5c	Multiday adjustment (multiply line 5b by line 5a)	.....	\$	-
6.	Add lines 2, 3c, 4c, and 5c.....		\$	5,325,000
7.	Percent increase/decrease for good faith	.....		5%
8.	Percent increase for willfulness/negligence	.....		15%
9.	Percent increase for history of noncompliance	.....		5%
10.	Total percentage (add lines 7 through 9)	.....		25%
11.	Multiply line 6 by line 10	.....	\$	1,331,250
12.	Economic benefit penalty	.....	
13.	Add lines 6, 11, and 12 for total penalty amount for this violation	.....	\$	6,656,250

Violation # 13

Facility: Waste Isolation Pilot Plant

Date violation observed: July 7, 2014

Citation/Violation: The Respondents' failure to verify the completeness and accuracy of the Waste Stream Profile Form is a violation of Permit Condition C-5a(2), Examination of the Waste Stream Profile Form and Container Data Checks. (Associated applicable requirement - PC C1)

Location: NA

PENALTY AMOUNT:

1.	Gravity based penalty from matrix	\$	10,000
	(a) Potential for harm		major
	(b) Extent of deviation		major
	(c) Number of counts		4
2.	Multiple count adjustment (multiply line 1 by counts)	\$	40,000
3a	Multiday penalty from matrix	\$	5,000
3b	Days of noncompliance (or other appropriate number)		60
3c	Multiday adjustment (multiply line 3b minus 1 by line 3a)	\$	295,000
4a	Multiday penalty from matrix		
4b	Days of noncompliance (or other appropriate number)		0
4c	Multiday adjustment (multiply line 4b by line 4a)	\$	-
5a	Multiday penalty from matrix		
5b	Days of noncompliance (or other appropriate number)		0
5c	Multiday adjustment (multiply line 5b by line 5a)	\$	-
6.	Add lines 2, 3c, 4c, and 5c.....	\$	335,000
7.	Percent increase/decrease for good faith		5%
8.	Percent increase for willfulness/negligence		15%
9.	Percent increase for history of noncompliance		5%
10.	Total percentage (add lines 7 through 9)		25%
11.	Multiply line 6 by line 10	\$	83,750
12.	Economic benefit penalty		
13.	Add lines 6, 11, and 12 for total penalty amount for this violation	\$	418,750