



ADMINISTRATIVE RULES OF MONTANA

17.4.303 BASE PENALTY

- (1) As provided in this rule, the department shall calculate the base penalty by multiplying the maximum penalty amount authorized by statute by a factor from the appropriate base penalty matrix in (2) or (3). In order to select a matrix from (2) or (3), the nature of the violation must first be established. For violations that harm or have the potential to harm human health or the environment, the department shall classify the extent and gravity of the violation as major, moderate, or minor as provided in (4) and (5). For all other violations, the extent factor does not apply, and the department shall classify the gravity of the violation as major, moderate, or minor as provided in (5).
- (2) The department shall use the following matrix for violations that harm or have the potential to harm human health or the environment:

GRAVITY			
EXTENT	Major	Moderate	Minor
Major	0.85	0.70	0.55
Moderate	0.70	0.55	0.40
Minor	0.55	0.40	0.25

- (3) The department shall use the following matrix for violations that adversely impact the department's administration of the applicable statute or rules, but which do not harm or have the potential to harm human health or the environment:

GRAVITY		
Major	Moderate	Minor
0.50	0.40	0.30

- (4) In determining the extent of a violation, the factors that the department may consider include, but are not limited to, the volume, concentration, and toxicity of the regulated substance, the severity

and percent of exceedance of a regulatory limit, and the duration of the violation. The department shall determine the extent of a violation as follows:

- (a) a violation has a major extent if it constitutes a major deviation from the applicable requirements;
 - (b) a violation has a moderate extent if it constitutes a moderate deviation from the applicable requirements;
 - (c) a violation has a minor extent if it constitutes a minor deviation from the applicable requirements.
- (5) The department shall determine the gravity of a violation as follows:
- (a) A violation has major gravity if it causes harm to human health or the environment, poses a serious potential to harm human health or the environment, or has a serious adverse impact on the department's administration of the statute or rules. Examples of violations that may have major gravity include a release of a regulated substance that causes harm or poses a serious potential to harm human health or the environment, construction or operation without a required permit or approval, an exceedance of a maximum contaminant level or water quality standard, or a failure to provide an adequate performance bond.
 - (b) A violation has moderate gravity if it:
 - (i) is not major or minor as provided in (5)(a) or (c); and
 - (ii) poses a potential to harm human health or the environment, or has an adverse impact on the department's administration of the statute or rules. Examples of violations that may have moderate gravity include a release of a regulated substance that does not cause harm or pose a serious potential to harm human health or the environment, a failure to monitor, report, or make records, a failure to report a release, leak, or bypass, or a failure to construct or operate in accordance with a permit or approval.
 - (c) A violation has minor gravity if it poses no risk of harm to human health or the environment, or has a low adverse impact on the department's administration of the statute or rules. Examples of violations that may have minor gravity include a failure to submit a report in a timely manner, a failure to pay fees, inaccurate recordkeeping, or a failure to comply with a minor operational requirement specified in a permit.

Authorizing statute(s): 75-2-111, 75-2-112, 75-2-503, 75-5-201, 75-6-104, 75-10-204, 75-10-405, 75-10-503, 75-10-1202, 75-11-204, 75-11-505, 75-20-105, 76-4-104, 82-4-112, 82-4-205, 82-4-321, 82-4-422, MCA

Implementing statute(s): 75-1-1001, 82-4-1001, MCA

History: NEW, 2006 MAR p. 1139, Eff. 5/5/06; AMD, 2024 MAR p. 253, Eff. 2/10/24.