
GENERAL PROCEDURES

Effective Date: 1/15/2025

1. Special Assessment Penalty Targets

Penalty points for a violation correspond to a dollar value. MSHA converts the total number of special assessment penalty points to a target penalty between \$168 and \$90,649. The table below summarizes the penalty point and dollar assessment ranges for non-flagrant special assessments.

<i>Total Number of Special Assessment Penalty Points</i>	<i>Proposed Target Penalty</i>
60 or fewer Points	\$168
61 - 139 Points	Penalty Conversion Table from Table 14, 30 CFR 100.3(g)
140 or more Points	\$90,649

(Also see Table 14-Penalty Conversion Table, in 30 CFR 100.3(g)
<https://arlweb.msha.gov/regs/30cfr/>)

For violations that are designated as flagrant, the target penalty increases by \$1,790.57 per penalty point up to a maximum of \$332,376 for 275 points. A flagrant violation is defined as a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a mandatory health or safety standard that substantially or proximately causes, or reasonably could have been expected to cause, death or serious bodily injury. The following table shows the penalty conversion schedule for flagrant violations.

<i>Special Assessment Penalty Conversion Table for Flagrant Violations</i>							
Penalty Points	Dollar Amount	Penalty Points	Dollar Amount	Penalty Points	Dollar Amount	Penalty Points	Dollar Amount
141	\$92,440	175	\$153,319	209	\$214,198	243	\$275,078
142	\$94,230	176	\$155,110	210	\$215,989	244	\$276,868
143	\$96,021	177	\$156,900	211	\$217,779	245	\$278,659
144	\$97,811	178	\$158,691	212	\$219,570	246	\$280,449
145	\$99,602	179	\$160,481	213	\$221,361	247	\$282,240
146	\$101,392	180	\$162,272	214	\$223,151	248	\$284,031
147	\$103,183	181	\$164,062	215	\$224,942	249	\$285,821
148	\$104,974	182	\$165,853	216	\$226,732	250	\$287,612
149	\$106,764	183	\$167,644	217	\$228,523	251	\$289,402

150	\$108,555	184	\$169,434	218	\$230,313	252	\$291,193
151	\$110,345	185	\$171,225	219	\$232,104	253	\$292,983
152	\$112,136	186	\$173,015	220	\$233,895	254	\$294,774
153	\$113,926	187	\$174,806	221	\$235,685	255	\$296,565
154	\$115,717	188	\$176,596	222	\$237,476	256	\$298,355
155	\$117,508	189	\$178,387	223	\$239,266	257	\$300,146
156	\$119,298	190	\$180,178	224	\$241,057	258	\$301,936
157	\$121,089	191	\$181,968	225	\$242,847	259	\$303,727
158	\$122,879	192	\$183,759	226	\$244,638	260	\$305,517
159	\$124,670	193	\$185,549	227	\$246,429	261	\$307,308
160	\$126,460	194	\$187,340	228	\$248,219	262	\$309,099
161	\$128,251	195	\$189,130	229	\$250,010	263	\$310,889
162	\$130,042	196	\$190,921	230	\$251,800	264	\$312,680
163	\$131,832	197	\$192,712	231	\$253,591	265	\$314,470
164	\$133,623	198	\$194,502	232	\$255,381	266	\$316,261
165	\$135,413	199	\$196,293	233	\$257,172	267	\$318,051
166	\$137,204	200	\$198,083	234	\$258,963	268	\$319,842
167	\$138,994	201	\$199,874	235	\$260,753	269	\$321,633
168	\$140,785	202	\$201,664	236	\$262,544	270	\$323,423
169	\$142,576	203	\$203,455	237	\$264,334	271	\$325,214
170	\$144,366	204	\$205,246	238	\$266,125	272	\$327,004
171	\$146,157	205	\$207,036	239	\$267,915	273	\$328,795
172	\$147,947	206	\$208,827	240	\$269,706	274	\$330,585
173	\$149,738	207	\$210,617	241	\$271,497	275	\$332,376
174	\$151,528	208	\$212,408	242	\$273,287		

2. Special Assessment Penalty Adjustments

The Office of Assessments (OA) may adjust the computed target penalty amount by +/- 25% within the penalty range of \$168 minimum and \$90,649 maximum (\$332,376 maximum for flagrant violations). An adjustment of more than +/- 25% may occur at the discretion of OA based on the unique facts and circumstances surrounding a violation.

ASSIGNMENT OF SPECIAL ASSESSMENT PENALTY POINTS

MSHA assigns special assessment penalty points to most violations for five of the six statutory criteria used in determination of regular assessment penalty points in 30 CFR 100.3(a), sections I-VI. Additional procedures are used for assigning special assessment penalty points for violations pertaining to training violations not contributing to an accident or injury, miner smoking violations,

discrimination violations issued under section 105(c) of the Act, and agent violations issued under section 110(c) of the Act.

1. Size of Business

MSHA assigns assessment penalty points for the Size of Business based on mine size and controller size during the previous calendar year. A coal mine operator's size is based on the tons produced at the mine and the tons produced at all mines under the controlling entity. A metal/nonmetal mine operator's size is based on the number of hours worked at the mine and the hours worked at all mines under the controlling entity. An independent contractor's size is based on annual hours worked at all mines. MSHA does not consider the controlling entity for independent contractors.

For most special assessments, MSHA assigns the regular assessment penalty points for size derived from Tables I – V, 30 CFR 100.3(b).

2. Violation History

Mine operators are assigned penalty points from Tables VI and VIII, 30 CFR 100.3(c), based on the number of violations per inspection day and on the number of repeat violations of the same standard per inspection day at the mine during the previous 15-month violation history period.

Independent contractors are assigned penalty points from Tables VII and IX, 30 CFR 100.3(c), based on the total number of violations and on the total number of repeat violations of the same standard at all mines. Assessed violations that became final orders of the Federal Mine Safety and Health Review Commission (FMSHRC) during the 15-month violation history period are used in determining violation history.

The violation histories for all mines and independent contractors are available on MSHA's web site at <https://arlweb.msha.gov/drs/drshome.htm>.

For special assessments, MSHA assigns the regular assessment penalty points for Violation History from Tables VI and VII, 30 CFR 100.3(c). For Repeat Violation History, MSHA assigns the regular assessment penalty points from Tables VIII and IX, 30 CFR 100.3(c), except for flagrant violations.

For flagrant violations, MSHA assigns special assessment penalty points for Repeat Violation History as follows:

<i>Number of Repeat Violations</i>	<i>Points</i>	<i>Number of Repeat Violations</i>	<i>Points</i>
None	0	11	16
2	7	12	17
3	8	13	18
4	9	14	19
5	10	15	20
6	11	16	21
7	12	17	22
8	13	18	23
9	14	19	24
10	15	>=20	25

3. Negligence

For negligence, MSHA adds the following special assessment penalty points to the regular assessment points from Table X, 30 CFR 100.3(d):

- 5 points for a violation not contributing to an accident;
- 7 points for Low or Moderate negligence for a violation contributing to an accident;
- 8 points for High or Reckless Disregard negligence for a violation contributing to a non-injury accident; and
- 10 points for a violation contributing to a lost workdays, restricted duty, permanently disabling, or a fatal accident.

MSHA assigns a total of 50 negligence points for a flagrant violation with high negligence and a total of 60 negligence points for a flagrant violation with reckless disregard negligence.

4. Gravity

Gravity is evaluated through a combination of the likelihood of an occurrence of an event against which a standard is:

- Directed;
- The severity of the illness or injury if the event occurred or was to occur; and
- The number of persons potentially affected by the event.

MSHA assigns special assessment penalty points for Gravity as follows:

(a) Special Assessment Penalty Points for Likelihood of Occurrence of Event

MSHA assigns the following special assessment penalty points for a violation not contributing to an accident:

<i>Gravity - Likelihood of Occurrence</i>	<i>Special Assessment Penalty Points</i>
No Likelihood	0
Unlikely	15
Reasonably Likely	35
Highly Likely	45
Occurred	55

MSHA assigns the following special assessment penalty points for a violation contributing to a non-injury accident:

<i>Gravity - Likelihood of Occurrence</i>	<i>Special Assessment Penalty Points</i>
No Likelihood	0
Unlikely	15
Reasonably Likely	35
Highly Likely	45
Occurred	55

MSHA assigns the following special assessment penalty points for a violation contributing to an accident with injury or a flagrant violation:

<i>Gravity - Likelihood of Occurrence</i>	<i>Special Assessment Penalty Points</i>
No Likelihood	0
Unlikely	15
Reasonably Likely	35
Highly Likely	45
Occurred	55

(b) Special Assessment Penalty Points for Severity of EXPECTED Injury or Illness

MSHA assigns the following special assessment penalty points for severity of expected injury or illness for violations not contributing to an accident:

<i>Gravity - Severity of Injury or Illness</i>	<i>Special Assessment Penalty Points</i>
No Lost Workdays	0
Lost Workdays	10
Permanently Disabling	15
Fatal	25

MSHA assigns the following special assessment penalty points for severity of expected injury or illness for violations contributing to a non-injury accident:

<i>Gravity – Severity of Injury or Illness</i>	<i>Special Assessment Penalty Points</i>
No Lost Workdays	0
Lost Workdays	10
Permanently Disabling	15
Fatal	25

MSHA assigns the following special assessment penalty points for severity of expected injury or illness for violations contributing to an accident with injury:

<i>Gravity – Severity of Injury or Illness</i>	<i>Special Assessment Penalty Points</i>
No Lost Workdays	0
Lost Workdays	10
Permanently Disabling	20
Fatal	30

MSHA assigns the following special assessment penalty points for all flagrant violations:

<i>Gravity - Severity of Injury or Illness</i>	<i>Special Assessment Penalty Points</i>
No Lost Workdays	N/A
Lost Workdays	N/A
Permanently Disabling	40
Fatal	50

When a serious injury accident has occurred, MSHA adds up to 12 special assessment penalty points to account for the severity of the actual injury. See table below for the number of special assessment points added for actual injuries or illnesses.

<i>Severity of ACTUAL Injury or Illness (Permanently Disabling)</i>	<i>Special Assessment Penalty Points</i>
Lost Workdays or Restricted Duty	2
Partial - to one limb or organ	5
Full - to one limb or organ	7
Full or Partial - to multiple limbs or organs, or to torso, neck, or head	10
Fatal	12

**(c) Special Assessment Penalty Points for Number of Persons
POTENTIALLY Affected**

MSHA assigns the regular assessment penalty points in Table XIII, 30 CFR 100.3(e), for special assessment violations contributing and not contributing to an accident.

MSHA assigns the following special assessment penalty points for a flagrant violation:

<i>Gravity - Persons Potentially Affected</i>	<i>Special Assessment Penalty Points</i>
0	0
1	10
2	11
3	12
4	13
5	14
6	15
7	16
8	17
9	18
>=10	25

5. Unwarrantable Failure

Citations and orders issued under section 104(d) of the Mine Act are issued for violations caused by an “unwarrantable failure” to comply.

- MSHA adds 3 special assessment penalty points for a 104(d) violation not contributing to an accident
- MSHA adds 5 special assessment penalty points for a 104(d) violation contributing to an accident or designated as flagrant.

The minimum penalty for any citation or order issued under Section 104(d)(1) of the Mine Act is \$3,022 and the minimum for any order issued under Section 104(d)(2) of the Mine Act is \$6,041.

6. Abatement & Good Faith

In general, if an operator abates a citation within a reasonable period of time, as prescribed by the citation, the total number of special assessment penalty points is reduced by 2 points. There is no penalty point reduction for an order of withdrawal, citations issued in conjunction with orders, flagrant violations, and any citation contributing to an accident or any violation of the Mine Act.

When a citation is not abated within the time allotted, MSHA may assess a daily penalty of up to \$9,820 for each day the citation remains unabated.

7. Imminent Danger

MSHA adds 2 special assessment penalty points for violations contributing to an imminent danger situation.

8. Citations for Working in Defiance of an Order

MSHA adds 3 penalty points for a citation issued for working in defiance of a withdrawal order. MSHA adds an additional 5 points (for a total of 8) if the violation contributed to an accident.

9. Citations for Immediate Notification Violations

The minimum penalty for any citation issued for failure to provide timely notification to the Secretary under section 103(j) of the Mine Act (30 CFR 50.10) is \$7,555, the maximum is \$90,649.