

**WAC 332-18-05005 Calculation of penalty.** Fines shall be calculated using the following steps:

(1) The base penalty shall be the minimum fine in each category as set forth in WAC 332-18-05004.

(2) The department may adjust the fine by multiplying the Category II and III base penalties by factors specific to the incident, miner or permit holder, and/or site. The following factors shall not be imposed unless the department explains in writing how each factor was determined:

(a) Severity: The department shall adjust the penalty to reflect the extent or magnitude and difficulty of repairing the damage to lands, waters, and neighboring properties. This factor shall increase the base penalty by not more than 5.0 times the base penalty.

(b) Previous violation(s): The department shall consider whether the violator has had previous significant violations of the act, rules, permit, or reclamation plan as documented by an enforcement action. This factor shall increase the base penalty by not more than 3.0 times the base penalty.

[Statutory Authority: RCW 78.44.404, 34.05.220, 43.21C.135, and 78.44.250. WSR 14-17-076, § 332-18-05005, filed 8/18/14, effective 9/18/14. Statutory Authority: RCW 78.44.040, 34.05.220, 43.21C.135 and 78.44.250. WSR 94-14-051, § 332-18-05005, filed 6/30/94, effective 8/2/94.]