

Appendix A to Subpart D of Part 107—Guidelines for Civil Penalties

I. This appendix sets forth the guidelines PHMSA uses (as of October 2, 2013) in making initial baseline determinations for civil penalties. The first part of these guidelines is a list of baseline amounts or ranges for frequently-cited probable violations. Following the list of violations are general guidelines PHMSA uses in making penalty determinations in enforcement cases.

II. LIST OF FREQUENTLY CITED VIOLATIONS

Violation description	Section or cite	Baseline assessment
General Requirements		
A. Registration Requirements: Failure to register as an offeror or carrier of hazardous material and pay registration fee:	107.608, 107.612.	
1. Small business or not-for-profit		\$1,200 + \$600 each additional year.
2. All others		\$3,500 + \$1,000 each additional year.
B. Training Requirements:		
1. Failure to provide initial training to hazmat employees (general awareness, function-specific, safety, and security awareness training):	172.702.	
a. More than 10 hazmat employees		\$1,500 for each area.
b. 10 hazmat employees or fewer		\$1,000 for each area.
2. Failure to provide recurrent training to hazmat employees (general awareness, function-specific, safety, and security awareness training).	172.702	\$1,000 for each area.
3. Failure to provide in-depth security training when a security plan is required but has not been developed.	172.702	Included in penalty for no security plan.
4. Failure to provide in-depth security training when a security plan is required and has been developed.	172.702	\$3,100.
5. Failure to create and maintain training records:	172.704.	
a. More than 10 hazmat employees		\$1,000.
b. 10 hazmat employees or fewer		\$600.
C. Security Plans:		
1. Failure to develop a security plan; failure to adhere to security plan:	172.800	
a. Section 172.504 Table 1 materials		\$9,300.
b. Packing Group I		\$7,500.
c. Packing Group II		\$5,600.
d. Packing Group III		\$3,700.
2. Incomplete security plan or incomplete adherence (one or more of four required elements missing)		One-quarter (25 percent) of above for

		each element.
3. Failure to update a security plan to reflect changing circumstances	172.802(b)	One-third (33 percent) of baseline for no plan.
4. Failure to put security plan in writing; failure to make all copies identical	172.800(b)	One-third (33 percent) of baseline for no plan.
D. Notification to a Foreign Shipper: Failure to provide a foreign offeror or forwarding agent written information of HMR requirements applicable to a shipment of hazardous materials within the United States, at the place of entry into the United States:	171.22(f).	
1. Packing Group I and §172.504 Table 1 materials		\$9,300.*
2. Packing Group II		\$5,500.*
3. Packing Group III		\$1,800.*
*The baseline applied to the importer shall be equal to or less than the baseline applied to the foreign offeror or forwarding agent.		
Violation description	Section or cite	Baseline assessment
E. Special Permits and Approvals:		
1. Offering or transporting a hazardous material, or otherwise performing a function covered by a special permit or approval, without authorization:	171.2.	
a. After the special permit or approval has expired		\$1,200 + \$600 for each additional year.
b. After the special permit or approval has been terminated		\$5,000 to \$25,000.
2. Failure to comply with a provision of a special permit or approval (when no other baseline is applicable):	171.2.	
a. That relates to safety		\$4,000 and up.
b. That does not relate to safety		\$500 and up.
3. Failure to maintain a copy of the special permit in the transport vehicle or facility, when required by the terms of the special permit	Special Permit	\$1,000.
4. Use an approval or approval symbol issued to another person	Approval, Various	\$9,000.
Offeror Requirements—All hazardous materials		
A. Undeclared Shipment:	172.200, 172.300, 172.400, 172.500.	
1. Offering for transportation a hazardous material without shipping papers, package markings, labels, and placards		

(where required):		
a. Packing Group I and §172.504 Table 1 materials		\$30,000 and up.
b. Packing Group II		\$20,000.
c. Packing Group III		\$17,500.
d. Consumer Commodity, ORM-D		\$5,000.
2. Offering for transportation a hazardous material that is misclassified on the shipping paper, markings, labels, and placards (including improper treatment as consumer commodity, ORM-D):		
a. Packing Group I and §172.504 Table I materials		\$20,000.
b. Packing Group II		\$12,000.
c. Packing Group III		\$8,000.
3. Offering for transportation a forbidden hazardous material:		
a. Packing Group I and §172.504 Table I materials		\$35,000.
b. Packing Group II		\$25,000.
c. Packing Group III		\$20,000.
4. Offering for transportation a lithium battery, without shipping papers, package markings, labels, or placards (when required):		
a. For air transport		\$40,000.
b. For ground transport		\$20,000.
B. Shipping Papers:		
1. Failure to provide a shipping paper for a shipment of hazardous materials or accepting hazardous materials for transportation without a shipping paper:	172.201, 177.817(a).	
a. Packing Group I and §172.504 Table 1 materials		\$7,500.
b. Packing Group II		\$5,600.
c. Packing Group III		\$3,700.
2. Failure to follow one or more of the three approved formats for listing hazardous materials and non-hazardous materials on a shipping paper	172.201(a) (1)	\$1,500.
3. Failure to retain shipping papers as required	172.201(e)	\$1,200.
4. Failure to include a proper shipping name in the shipping description or using an incorrect proper shipping name:	172.202.	
a. Packing Group I and §172.504 Table 1 materials		\$2,000.
b. Packing Group II		\$1,500.
c. Packing Group III		\$1,000.
5. Failure to include a hazard class/division number in the shipping description:	172.202.	
a. Packing Group I and §172.504 Table 1 materials		\$2,000.
b. Packing Group II		\$1,500.
c. Packing Group III		\$1,000.
6. Failure to include an identification number in the shipping description:	172.202.	
a. Packing Group I and §172.504 Table 1 materials		\$2,500.
b. Packing Group II		\$1,800.
c. Packing Group III		\$1,200.
7. Using an incorrect hazard class:	172.202.	

a. That does not affect compatibility requirements		\$1,000.
b. That affects compatibility requirements:		
i. Packing Group I and §172.504 Table 1 materials		\$7,500.
ii. Packing Group II		\$5,600.
iii. Packing Group III		\$3,700.
8. Using an incorrect identification number:	172.202.	
a. That does not change the response information		\$1,000.
b. That changes response information:		
i. Packing Group I and §172.504 Table 1 materials		\$7,500.
ii. Packing Group II		\$5,600.
iii. Packing Group III		\$3,700.
9. Failure to include the Packing Group or using an incorrect Packing Group:	172.202.	
a. Packing Group I and §172.504 Table 1 materials		\$1,700.
b. Packing Group II and III		\$1,300.
10. Using a shipping description that includes additional unauthorized information (extra or incorrect words)	172.202	\$1,000.
11. Using a shipping description not in required sequence	172.202	\$600.
12. Failure to include the total quantity of hazardous material covered by a shipping description (including net explosive mass)	172.202	\$600.
13. Failure to include any of the following on a shipping paper, as required: Special permit number; "Limited Quantity or "Ltd Qty;" "RQ" for a hazardous substance; technical name in parentheses for a listed generic or "n.o.s." material; or marine pollutant	172.203(a), (b), (c)(2), (k), (l)	\$600.
14. Failure to indicate poison inhalation hazard on a shipping paper	172.203(m)	\$2,500.
15. Failure to include or sign the required shipper's certification on a shipping paper	172.204	\$1,000.
C. Emergency Response Information Requirements:		
1. Providing incorrect emergency response information with or on a shipping paper:	172.602.	
a. No significant difference in response		\$1,000.
b. Significant difference in response:		
i. Packing Group I and §172.504 Table 1 materials		\$7,500.
ii. Packing Group II		\$5,600.
iii. Packing Group III		\$3,700.
2. Failure to include an emergency response telephone number on a shipping paper.	172.604	\$3,200.
3. Failure to have the emergency response telephone number monitored while a hazardous material is in transportation; or listing the number in a manner that it is not readily identifiable or cannot be found easily and quickly (e.g., multiple telephone numbers); or failing to include the name, contract number, or	172.604	\$1,600.

other unique identifier of the person registered with the emergency response provider.		
4. Listing an emergency response telephone number on a shipping paper that causes emergency responders delay in obtaining emergency response information (e.g., listing a telephone number that not working, incorrect, or otherwise not capable of providing required information).	172.604	\$3,200 to \$5,200
D. Package Marking Requirements:		
1. Failure to mark the proper shipping name and identification number on a package:	172.301(a).	
a. Packing Group I and §172.504 Table 1 materials		\$6,000.
b. Packing Group II		\$4,500.
c. Packing Group III		\$3,000.
2. Marking a package with an incorrect shipping name and identification number:	172.301(a).	
a. That does not change the response information:		
i. Packing Group I and §172.504 Table 1 materials		\$3,700.
ii. Packing Group II		\$2,700.
iii. Packing Group III		\$2,200.
b. That changes the response information:		
i. Packing Group I and §172.504 Table 1 materials		\$9,500.
ii. Packing Group II		\$7,100.
iii. Packing Group III		\$4,700.
3. Failure to mark the proper shipping name on a package or marking an incorrect shipping name on a package:	172.301(a).	
a. Packing Group I and §172.504 Table 1 materials		\$2,000.
b. Packing Group II		\$1,500.
c. Packing Group III		\$1,000.
4. Failure to mark the identification number on a package:	172.301(a).	
a. Packing Group I and §172.504 Table 1 materials		\$2,500.
b. Packing Group II		\$1,800.
c. Packing Group III		\$1,200.
5. Marking a package with an incorrect identification number:	172.301(a).	
a. That does not change the response information		\$1,000.
b. That changes the response information:		
i. Packing Group I and §172.504 Table 1 materials		\$7,500.
ii. Packing Group II		\$5,600.
iii. Packing Group III		\$3,700.
6. Failure to include the required technical name(s) in parentheses for a listed generic or “n.o.s.” entry	172.301(c)	\$600.
7. Failure to mark “non-odorized” on a cylinder containing liquefied petroleum gas	172.301(f)	\$2,000.
8. Marking a package as containing hazardous material when it contains no hazardous material	172.303(a)	\$1,000.
9. Failure to locate required markings away from other	172.304(a)	\$1,000.

markings that could reduce their effectiveness	(4)	
10. Failure to mark a package containing liquid hazardous materials with required orientation markings:	172.312.	
a. Packing Group I and §172.504 Table 1 materials		\$4,000.
b. Packing Group II		\$3,500.
c. Packing Group III		\$3,000.
11. Failure to mark "Biohazard on an infectious substance or "Inhalation Hazard" on a package containing a poison by inhalation hazard	172.313(a), 172.323	\$4,000.
12. Failure to apply limited quantity marking or "RQ" marking on a non-bulk package containing a hazardous substance	172.315, 172.324(b)	\$600.
13. Listing the technical name of a select agent hazardous material when it should not be listed	172.301(b)	\$1,600.
14. Failure to apply a "Keep away from heat," marine pollutant, or elevated temperature ("HOT") marking	172.317, 172.322, 172.325	\$1,200.
15. Failure to properly mark a bulk container	172.331, 172.334, 172.336, 172.338	\$1,000.
E. Package Labeling Requirements:		
1. Failure to label a package or applying a label that represents a hazard other than the hazard presented by the hazardous material in the package	172.400	\$7,000.
2. Placing a label on a package that does not contain a hazardous material	172.401(a)	\$1,000.
3. Failure to place a required subsidiary label on a package:	172.402.	
a. Packing Group I and §172.504 Table 1 materials		\$3,100.
b. Packing Group II		\$1,800.
c. Packing Group III		\$600.
4. Placing a label on a different surface of the package than, or away from, the proper shipping name	172.406(a)	\$1,000.
5. Placing an improper size label on a package	172.407(c)	\$1,000.
6. Placing a label on a package that does not meet color specification requirements (depending on the variance)	172.407(d)	\$1,000.
7. Failure to place a Cargo Aircraft Only label on a package intended for air transportation, when required	172.402(c)	\$5,000.
8. Failure to place a Cargo Aircraft Only label on a package containing a primary lithium battery or failure to mark a package containing a primary lithium battery as forbidden for transport on passenger aircraft:	172.402(c), 172.102(c) (1) Special Provision 188, 189, 190.	
a. For air transport		\$10,000.
b. For ground transport		\$1,000.
9. Failure to provide an appropriate class or division number on an explosive label	172.411	\$3,100.
F. Placarding Requirements:		
1. Improperly placarding a freight container or vehicle containing hazardous materials:	172.504.	

a. Packing Group I and §172.504 Table 1 materials		\$1,200 to \$11,200.
b. Packing Group II and III		\$1,000 to \$9,000.
2. Failure to placard a freight container or vehicle containing hazardous materials (no placard at all):	172.504.	
a. Packing Group I and §172.504 Table 1 materials		\$12,000.
b. Packing Group II and III		\$8,500.
G. Packaging Requirements:		
1. Failure to comply with package testing requirements for small quantities, excepted quantities, de minimis, materials of trade, limited quantities, and ORM-D	173.4, 173.4a, 173.4b, 173.6, 173.156, 173.306	\$1,000 to \$5,000.
2. Offering a hazardous material for transportation in an unauthorized non-UN standard or non-specification packaging (includes failure to comply with the terms of a special permit authorizing use of a non-standard or non-specification packaging):	Various.	
a. Packing Group I, §172.504 Table 1 materials, and Division 2.3 gases		\$11,200.
b. Packing Group II and Divisions 2.1 and 2.2 gases		\$8,700.
c. Packing Group III		\$6,200.
3. Offering a hazardous material for transportation in a package that was not retested as required:	Various.	
a. Packing Group I and §172.504 Table 1 materials		\$8,000.
b. Packing Group II		\$5,000.
c. Packing Group III		\$3,000.
4. Offering a hazardous material for transportation in an improper package:	Various.	
a. When Packing Group I material is packaged in a Packing Group III package		\$8,000.
b. When Packing Group I material is packaged in a Packing Group II package		\$5,000.
c. When Packing Group II material is packaged in a Packing Group III package		\$3,000.
5. Offering a hazardous material for transportation in a packaging (including a packaging manufactured outside the United States) that is torn, damaged, has hazardous material present on the outside of the package, or is otherwise not suitable for shipment	Various	\$7,500.
6. Offering a hazardous material for transportation in a self-certified packaging that has not been subjected to design qualification testing:	178.601, Various.	
a. Packing Group I and §172.504 Table 1 materials		\$13,500.
b. Packing Group II		\$10,500.
c. Packing Group III		\$7,500.
7. Offering a hazardous material for transportation in a packaging that has been successfully tested to an applicable	173.32(d), 173.24(c)	\$4,500.

UN standard but is not marked with the required UN marking (including missing specification plates)		
8. Failure to close a UN standard packaging in accordance with the closure instructions:	173.22(a)(4).	
a. Packing Group I and §172.504 Table 1 materials		\$2,000 to \$5,000.
b. Packing Group II		\$1,000 to \$4,000.
c. Packing Group III		\$500 to \$3,000.
9. Offering a hazardous material for transportation in a packaging that leaks during conditions normally incident to transportation:	173.24(b).	
a. Packing Group I and §172.504 Table 1 materials		\$16,500.
b. Packing Group II		\$11,200.
c. Packing Group III		\$7,500.
10. Overfilling or underfilling a package so that the effectiveness is substantially reduced:	173.24(b).	
a. Packing Group I and §172.504 Table 1 materials		\$11,200.
b. Packing Group II		\$7,500.
c. Packing Group III		\$3,700.
11. Failure to ensure packaging is compatible with hazardous material lading.	173.24(e)	\$9,000 to \$12,000.
12. Failure to mark an overpack as required	173.25(a)(4)	\$3,700.
13. Packaging incompatible materials in an overpack	173.25(a)(5)	\$9,300.
14. Marking a package "overpack" when the inner packages do not meet the requirements of the HMR:	173.25(a).	
a. Packing Group I and §172.504 Table 1 materials		\$15,000.
b. Packing Group II		\$10,000.
c. Packing Group III		\$7,000.
15. Failure to comply with additional requirements for transportation by aircraft	173.27	\$1,000 to \$10,000.
16. Filling an IBC, portable tank, or cargo tank (DOT, UN, or IM) that is out of test and offering hazardous materials for transportation in that IBC or portable tank. (Penalty amount depends on number of units and time out of test.)	173.32(a), 173.33(a)(3), 180.352, 180.407, 180.605.	
a. Packing Group I and §172.504 Table 1 materials:		
i. All testing overdue		\$8,700.
ii. Only periodic (5 year) tests overdue or only intermediate periodic (2.5 year) tests overdue		\$4,600.
b. Packing Group II:		
i. All testing overdue		\$6,600.
ii. Only periodic (5 year) tests overdue or only intermediate periodic (2.5 year) tests overdue		\$3,300.
c. Packing Group III:		

i. All testing overdue		\$4,600.
ii. Only periodic (5 year) tests overdue or only intermediate periodic (2.5 year) tests overdue		\$2,300.
17. Manifolding cylinders without conforming to manifolding requirements	173.301(g)	\$3,700 and up.
18. Failure to ensure a cargo tank motor vehicle in metered delivery service has an operational off-truck remote shut-off activation device	173.315(n)(3)	\$2,500.
19. Offering a hazardous material in a cargo tank motor vehicle when the material does not meet compatibility requirements with the tank or other lading or residue	173.33	\$15,000.
20. Failure to provide the required outage in a portable tank that results in a release of hazardous materials:	173.32(f)(6).	
a. Packing Group I and §172.504 Table 1 materials		\$15,000.
b. Packing Group II		\$11,200.
c. Packing Group III		\$7,500.
Offeror Requirements—Specific hazardous materials		
A. Cigarette Lighters:		
1. Offering for transportation an unapproved cigarette lighter, lighter refill, or similar device, equipped with an ignition element and containing fuel	173.21(i)	\$7,500.
2. Failure to include the cigarette lighter test report identifier on the shipping paper.	173.308(d)(1)	\$1,000.
3. Failure to mark the approval number on the package.	173.308(d)(2)	\$1,000.
B. Class 1—Explosives:		
1. Failure to mark the package with the EX number for each substance contained in the package or, alternatively, indicate the EX number for each substance in association with the description on the shipping description	172.320	\$1,000.
2. Offering an unapproved explosive for transportation:	173.54, 173.56(b).	
a. Division 1.4 fireworks meeting the chemistry requirements of APA Standard 87-1		\$5,000.
b. Division 1.3 fireworks meeting the chemistry requirements of APA Standard 87-1		\$7,500.
c. All other explosives (including forbidden)		\$12,500 and up.
3. Offering an unapproved explosive for transportation that minimally deviates from an approved design in a manner that does not impact safety:	173.54, 173.56(b).	
a. Division 1.4		\$3,000.
b. Division 1.3		\$4,000.
c. All other explosives		\$6,000.
4. Offering a leaking or damaged package of explosives for transportation:	173.54(c).	
a. Division 1.3 and 1.4		\$12,500.
b. All other explosives		\$16,500.
5. Offering a Class 1 material that is fitted with its own means of	173.60(b)	\$15,000.

ignition or initiation, without providing protection from accidental actuation	(5)	
6. Packaging explosives in the same outer packaging with other materials	173.61	\$9,300.
7. Transporting a detonator on the same vehicle as incompatible materials using the approved method listed in 177.835(g)(3) without meeting the requirements of IME Standard 22	177.835(g)(3)	\$10,000.
C. Class 7—Radioactive Materials:		
1. Failure to include required additional entries for radioactive material on a shipping paper, or providing incorrect information for these additional entries	172.203(d)	\$2,000 to \$5,000.
2. Failure to mark the gross mass on the outside of a package of Class 7 material that exceeds 110 pounds	172.310(a)	\$1,000.
3. Failure to mark each package with the words “Type A” or “Type B,” as appropriate	172.310(b)	\$3,700.
4. Placing a label on Class 7 material that understates the proper label category	172.403	\$6,200.
5. Placing a label on Class 7 material that fails to contain (or has erroneous) entries for the name of the radionuclide(s), activity, and transport index	172.403(g)	\$2,000 to \$5,000.
6. Failure to meet one or more of the general design requirements for a package used to ship a Class 7 material	173.410	\$6,200.
7. Failure to comply with the industrial packaging (IP) requirements when offering a Class 7 material for transportation	173.411	\$6,200.
8. Failure to provide a tamper-indicating device on a Type A package used to ship a Class 7 material	173.412(a)	\$5,000.
9. Failure to meet the additional design requirements of a Type A package used to ship a Class 7 material	173.412(b)-(i)	\$6,200.
10. Failure to meet the performance requirements for a Type A package used to ship a Class 7 material	173.412(j)-(l)	\$11,200.
11. Offering a DOT specification 7A packaging without maintaining complete documentation of tests and an engineering evaluation or comparative data:	173.415(a), 173.461.	
a. Tests and evaluation not performed		\$13,500.
b. Test performed but complete records not maintained		\$2,500 to \$6,200.
12. Offering any Type B, Type B(U), or Type B(M) packaging that failed to meet the approved DOT, NRC or DOE design, as applicable	173.416	\$16,500.
13. Offering a Type B packaging without registering as a party to the NRC approval certificate:	173.471(a).	
a. Never obtained approval		\$3,700.
b. Holding an expired certificate		\$1,200.
14. Failure to meet one or more of the special requirements for a package used to ship more than 0.1 kg of uranium hexafluoride	173.420	\$13,500.
15. Offering Class 7 materials for transportation as a limited quantity without meeting the requirements for a limited quantity	173.421(a)	\$8,000.

16. Offering a multiple-hazard limited quantity Class 7 material without addressing the additional hazard	173.423(a)	\$600 to \$3,100.
17. Offering Class 7 materials for transportation under exceptions for radioactive instruments and articles while failing to meet the applicable requirements	173.424	\$6,200 to \$12,500.
18. Offering Class 7 low specific activity (LSA) materials or surface contaminated objects (SCO) while failing to comply with applicable transport requirements (including, an external dose rate that exceeds an external radiation level of 10 mSv/h at 3 meters from the unshielded material)	173.427	\$7,500 to \$12,500.
19. Offering Class 7 LSA materials or SCO as exclusive use without providing specific instructions to the carrier for maintenance of exclusive use shipment controls	173.427(a) (6)	\$1,200.
20. Offering in excess of a Type A quantity of a Class 7 material in a Type A packaging	173.431	\$15,000.
21. Offering a package that exceeds the permitted radiation level or transport index	173.441	\$12,500.
22. Offering a package without determining the level of removable external contamination, or that exceeds the limit for removable external contamination	173.443	\$6,200 and up.
23. Storing packages of radioactive material in a group with a total criticality safety index of more than 50	173.447(a)	\$6,200 and up.
24. Offering for transportation or transporting aboard a passenger aircraft any single package or overpack of Class 7 material with a transport index greater than 3.0	173.448(e)	\$6,200 and up.
25. Exporting a Type B, Type B(U), Type B(M), or fissile package without obtaining a U.S. Competent Authority Certificate or, after obtaining a U.S. Competent Authority Certificate, failing to submit a copy to the national competent authority of each country into or through which the package is transported	173.471(d)	\$3,700.
26. Offering or exporting special form radioactive materials without maintaining a complete safety analysis or Certificate of Competent Authority, as required.	173.476(a), (b)	\$3,700.
27. Shipping a fissile material as fissile-exempt without meeting one of the exemption requirements or otherwise not complying with fissile material requirements	173.417, 173.453, 173.457	\$12,500.
28. Offering Class 7 fissile materials while failing to have a DOT Competent Authority Certificate or NRC Certificate of Compliance, as required, or failing to meet the requirements of the applicable Certificate	173.417	\$1,000 to \$12,500.
D. Class 2—Compressed Gases in Cylinders:		
1. Filling and offering a cylinder with compressed gas when the cylinder is out of test or after its authorized service life:	173.301(a) (6), (a)(7).	
a. Table 1 and compressed gas in solution		\$10,000 to \$15,000.
b. Division 2.1 gases		\$7,500 to \$10,000.
c. Division 2.2 gases		\$5,000 to \$7,500.
2. Overfilling cylinders:	Various.	

a. Division 2.3 gases		\$15,000.
b. Division 2.1 gases		\$10,000.
c. Division 2.2 gases		\$7,500.
d. Aerosols, limited quantities, consumer commodities		\$5,000.
3. Failure to check each day the pressure of a cylinder charged with acetylene that is representative of that day's compression, after the cylinder has cooled to a settled temperature, or failure to keep a record of this test for 30 days	173.303(d)	\$6,200.
4. Offering a limited quantity of a compressed gas in a metal container for the purpose of propelling a nonpoisonous material and failure to heat the cylinder until the pressure is equivalent to the equilibrium pressure at 131 °F, without evidence of leakage, distortion, or other defect	173.306(a)(3)	\$1,800 to \$5,000.
5. Offering a limited quantity of a compressed gas in a metal container intended to expel a non-poisonous material, while failing to subject the filled container to a hot water bath, as required	173.306(a)(3)(v)	\$5,000.
6. Offering liquefied petroleum gas for permanent installation on consumer premises when the requirements are not met	173.315(j)	\$7,500 to \$10,000.
E. Oxygen Generators Offered by Air:		
1. Offering an unapproved oxygen generator for transportation	173.168	\$25,000.
2. Offering an oxygen generator for transportation without installing a means of preventing actuation, as required	173.168	\$12,500 to \$25,000.
3. Offering an oxygen generator as spent when the ignition and chemical contents were still present	172.102(c)(1) Special Provision 61	\$35,000.
F. Batteries:	173.159, 173.185, 173.21(c).	
1. Offering lithium batteries in transportation that have not been tested:		
a. Ground transport		\$15,000.
b. Air transport		\$30,000.
2. Offering lithium batteries in transportation that have been assembled from tested cells, but have not been tested		\$5,000 + 25 percent increase for each additional design.
3. Failure to create records of design testing		\$2,500 to \$9,300.
4. Offering lithium batteries in transportation that have not been protected against short circuit		\$15,000.
5. Offering lithium batteries in transportation in unauthorized packages		\$12,500.
6. Offering lead acid batteries in transportation in unauthorized packages		\$10,000.
7. Offering lithium batteries in transportation on passenger aircraft or misclassifying them for air transport		\$30,000.

8. Failure to prepare batteries so as to prevent damage in transit		\$6,000.
Manufacturing, Reconditioning, Retesting Requirements		
A. Activities Subject to Approval:		
1. Failure to report in writing a change in name, address, ownership, test equipment, management, or test personnel	171.2(c), Approval Letter	\$700 to \$1,500.
2. Failure by an independent inspection agency of specification cylinders to satisfy all inspector duties, including inspecting materials, and verifying materials of construction and cylinders comply with applicable specifications	178.35(c) (1), (2), (3)	\$5,000 to \$16,500.
3. Failure to properly complete or retain inspector's report for specification packages	178.25(c) (4), Various	\$4,000.
4. Failure to have a cylinder manufacturing registration number/symbol, when required	Various	\$2,500.
B. Packaging Manufacturers (General):		
1. Failure of a manufacturer or distributor to notify each person to whom the packaging is transferred of all the requirements not met at the time of transfer, including closure instructions	178.2(c)	\$3,100.
2. Failure to comply with specified construction requirements for non-bulk packagings:	178.504 to 178.523.	
a. Packing Group I and §172.504 Table 1 materials		\$12,000.
b. Packing Group II		\$8,000.
c. Packing Group III		\$4,000.
3. Fail testing: Failure to ensure a packaging certified as meeting the UN standard is capable of passing the required performance testing (depending on size of package):	178.601(b), 178.609, part 178 subparts O, Q.	
a. Infectious substances		\$16,500.
b. Packing Group I and §172.504 Table 1 materials		\$13,500 to \$16,500.
c. Packing Group II		\$10,500 to \$13,500.
d. Packing Group III		\$7,500 to \$10,500.
4. No testing: Certifying a packaging as meeting a UN standard when design qualification testing was not performed (depending on size of package):	178.601(d), 178.609, part 178 subparts O, Q.	
a. Infectious substances		\$16,500.
a. Packing Group I and §172.504 table 1 materials		\$13,500 to \$16,500.
b. Packing Group II		\$10,500 to \$13,500.
c. Packing Group III		\$7,500 to \$10,500.
5. Failure to conduct periodic testing on UN standard packaging (depending on length of time, Packing Group, and size of	178.601(e), part 178	\$2,500 to \$16,500.

package)	subparts O, Q	
6. Improper testing: Failure to properly conduct testing for UN standard packaging (e.g., testing with less weight than marked on packaging; drop testing from lesser height than required; failing to condition fiberboard boxes before design test) (depending on size of package):		
a. Design qualification testing:	178.601(d), 178.609, part 178 subparts O, Q.	
i. Infectious substances		\$13,500.
ii. Packing Group I		\$10,500 to \$13,500.
iii. Packing Group II		\$7,500 to \$10,500.
iv. Packing Group III		\$2,500 to \$7,500.
b. Periodic testing:	178.601(e), 178.609.	
i. Infectious substances		\$10,500.
ii. Packing Group I		\$7,000 to \$10,500.
iii. Packing Group II		\$4,000 to \$7,000.
iv. Packing Group III		\$600 to \$4,000.
7. Failure to keep complete and accurate testing records:	178.601(l).	
a. No records kept		\$5,000.
b. Incomplete or inaccurate records		\$1,200 to \$3,700.
8. Improper marking of UN certification	178.503	\$600 per item.
C. Drum Manufacturers & Reconditioners:		
1. Failure to properly conduct a production leakproofness test on a new or reconditioned drum:	178.604(b), (d), 173.28(b) (2)(i).	
a. Improper testing:		
i. Packing Group I		\$3,000.
ii. Packing Group II		\$2,500.
iii. Packing Group III		\$2,000.
b. No testing performed:		
i. Packing Group I		\$6,200.
ii. Packing Group II		\$5,000.
iii. Packing Group III		\$3,700.
2. Marking incorrect tester information on a reused drum:	173.28(b) (2)(ii).	

a. Incorrect information		\$1,000.
b. Unauthorized use of another's information		\$9,000.
3. Representing, marking, or certifying a drum as a reconditioned UN standard packaging when the drum does not meet a UN standard.	173.28(c)	\$7,500 to \$13,500.
4. Representing, marking, or certifying a drum as altered from one UN standard to another, when the drum has not been altered.	173.28(d)	\$600
D. IBC and Portable Tank Requalification:		
1. Failure to properly test and inspect IBCs or portable tanks	180.352, 180.603.	
a. Packing Group I		\$10,000.
b. Packing Group II		\$7,500.
c. Packing Group III		\$5,000.
2. Failure to properly mark an IBC or portable tank with the most current retest and/or inspection information	180.352(e), 178.703(b), 180.605(k)	\$600 per item.
3. Failure to keep complete and accurate records of IBC or portable tank retest and reinspection:	180.352(f), 180.605(l).	
a. No records kept		\$5,000.
b. Incomplete or inaccurate records		\$1,200 to \$3,700.
4. Failure to make inspection and test records available to a DOT representative upon request	180.352(g), 49 U.S.C. 5121(b)(2)	\$1,200.
5. Failure to perform tests (internal visual, leakproofness) on an IBC as part of a repair	180.352(d)	\$3,700 to \$6,200.
6. Failure to perform routine maintenance on an IBC	180.350(c)	\$2,500.
E. Cylinder Manufacturers & Rebuilders:		
1. Manufacturing, representing, marking, certifying, or selling a DOT high-pressure cylinder that was not inspected and verified by an approved independent inspection agency	178.35	\$10,000 to \$25,000.
2. Failure to mark a registration number/symbol on a cylinder, when required	178.35, Various	\$1,000.
3. Failure to mark the date of manufacture or lot number on a DOT-39 cylinder	178.65(i)	\$3,700.
4. Failure to have a chemical analysis performed in the U.S. for a material manufactured outside the U.S., without an approval	107.807, 178.35	\$6,200.
5. Failure to comply with defect and attachment requirements, safety device requirements, or marking requirements	178.35(d), (e), (f)	\$5,000.
6. Failure to meet wall thickness requirements	Various	\$9,300 to \$18,700.
7. Failure to heat treat cylinders prior to testing	Various	\$6,200 to \$18,700.
8. Failure to conduct a complete visual internal examination	Various	\$3,100 to \$7,700.
9. Failure to conduct a hydrostatic test, or conducting a hydrostatic test with inaccurate test equipment	Various	\$3,100 to \$7,700.
10. Failure to conduct a flattening test	Various	\$9,300 to \$18,700.

11. Failure to conduct a burst test on a DOT-2P, 2Q, 2S, or 39 cylinder	178.33-8, 178.33a-8, 178.33b-8, 178.65(f)(2)	\$6,200 to \$18,700.
12. Failure to maintain required inspector's reports:	178.35, Various.	
a. No reports at all		\$5,000.
b. Incomplete or inaccurate reports		\$1,200 to \$3,700.
13. Failure to complete or retain manufacturer's reports	178.35(g)	\$6,200.
14. Representing a DOT-4 series cylinder as repaired or rebuilt to the requirements of the HMR without being authorized by the Associate Administrator	180.211(a)	\$10,000 to \$25,000.
F. Cargo Tank Motor Vehicles:		
1. Failure to maintain complete cargo tank test reports, as required:	180.417(b), (c).	
a. No records		\$5,000.
b. Incomplete records		\$1,200 to \$3,700.
2. Failure to have a cargo tank tested or inspected (e.g., visual, thickness, pressure, leakproofness)	180.407(c)	\$8,000 and up; increase by 25 percent for each additional.
3. Failure to mark a cargo tank with test and inspection markings	180.415	\$600 each item.
4. Failure to retain a cargo tank's data report and Certificates or design certification	178.320(b), 178.337-18, 178.338-19, 178.345-15	\$6,200.
5. Failure to mark a special permit number on a cargo tank.	172.301(c)	\$1,800.
6. Constructing a cargo tank or cargo tank motor vehicle not in accordance with a special permit or design certification	178.320(b), Special Permit	\$13,500.
7. Failure to mark manhole assemblies on a cargo tank motor vehicle manufactured after October 1, 2004	178.345-5(e)	\$4,500.
8. Failure to apply specification plate and name plate:	178.337-17, 178.338-18, 178.345-14.	
a. No marking		\$4,500.
b. Incomplete marking		\$600 per item.
9. Failure to conduct monthly inspections and tests of discharge system in cargo tanks	180.416(d)	\$2,500.
G. Cylinder Requalification:		
1. Certifying or marking as retested a non-specification cylinder	180.205(a)	\$1,000.
2. Failure to have retester's identification number (RIN)	180.205(b)	\$5,000.
3. Failure to have current authority due to failure to renew a RIN	180.205(b)	\$2,500 + \$600 each

		additional year.
4. Marking a RIN before successfully completing a hydrostatic retest	180.205(b)	\$1,000.
5. Representing, marking, or certifying a cylinder as meeting the requirements of a special permit when the cylinder was not maintained or retested in accordance with the special permit	171.2(c), (e), 180.205(c), Special Permit	\$2,500 to \$7,500.
6. Failure to conduct a complete visual external and internal examination	180.205(f)	\$2,600 to \$6,500.
7. Performing hydrostatic retesting without confirming the accuracy of the test equipment or failing to conduct hydrostatic testing	180.205(g) (1), 180.205(g) (3)	\$2,600 to \$6,500.
8. Failure to hold hydrostatic test pressure for 30 seconds or sufficiently longer to allow for complete expansion	180.205(g) (5)	\$3,800.
9. Failure to perform a second retest, after equipment failure, at a pressure increased by the lesser of 10 percent or 100 psi (includes exceeding 90percent of test pressure prior to conducting a retest)	180.205(g) (5)	\$3,800.
10. Failure to condemn a cylinder when required (e.g., permanent expansion exceeds 10 percent of total expansion [5percent for certain special permit cylinders], internal or external corrosion, denting, bulging, evidence of rough usage)	180.205(i)	\$7,500 to \$13,500.
11. Failure to properly mark a condemned cylinder or render it incapable of holding pressure	180.205(i) (2)	\$1,000 to \$5,000.
12. Failure to notify the cylinder owner in writing when a cylinder has been condemned	180.205(i) (2)	\$1,200.
13. Failure to perform hydrostatic retesting at the minimum specified test pressure	180.209(a)	\$2,600 to \$6,500.
14. Marking a star on a cylinder that does not qualify for that mark	180.209(b)	\$2,500 to \$5,000.
15. Marking a “ + ” sign on a cylinder without determining the average or minimum wall stress by calculation or reference to CGA Pamphlet C-5	173.302a(b)	\$2,500 to \$5,000.
16. Marking a cylinder in or on the sidewall when not permitted by the applicable specification	180.213(b)	\$7,500 to \$13,500.
17. Failure to maintain legible markings on a cylinder	180.213(b) (1)	\$1,000.
18. Marking a DOT 3HT cylinder with a steel stamp other than a low-stress steel stamp	180.213(c) (2)	\$7,500 to \$13,500.
19. Improper marking of the RIN or retest date on a cylinder	180.213(d)	\$1,000.
20. Marking an FRP cylinder with steel stamps in the FRP area of the cylinder such that the integrity of the cylinder is compromised	Special Permit	\$7,500 to \$13,500.
21. Failure to comply with eddy current examination requirements for DOT 3AL cylinders manufactured of aluminum alloy 6351-T6, when applicable	Appendix C to part 180	\$2,600 to \$6,500.
22. Failure to maintain current copies of the HMR, DOT special permits, and CGA Pamphlets applicable to inspection,	180.215(a)	\$700 to \$1,500.

retesting, and marking activities		
23. Failure to keep complete and accurate records of cylinder reinspection and retest:	180.215(b).	
a. No records kept		\$5,000.
b. Incomplete or inaccurate records		\$1,200 to \$3,700.
Carrier Requirements		
A. Incident Notification:		
1. Failure to provide immediate telephone/online notification of a reportable hazardous materials incident reportable under 171.15(b)	171.15	\$6,000.
2. Failure to file a written hazardous material incident report within 30 days of discovering a hazardous materials incident reportable under 171.15(b) or 171.16(a)	171.16	\$4,000.
3. Failure to include all required information in hazardous materials incident notice or report or failure to update report	171.15, 171.16	\$1,000.
B. Shipping Papers:		
1. Failure to retain shipping papers for 1 year after a hazardous material (or 3 years for a hazardous waste) is accepted by the initial carrier	174.24(b), 175.33(c), 176.24(b), 177.817(f)	\$1,200.
C. Stowage/Attendance/Transportation Requirements:		
1. Transporting packages of hazardous material that have not been secured against movement	Various	\$3,700 and up.
2. Failure to properly segregate hazardous materials	Various	\$9,300 and up.
3. Failure to remove a package containing hazardous materials from a motor vehicle before discharge of its contents:	177.834(h).	
a. Packing Group I and §172.504 Table 1 materials		\$5,000.
b. Packing Group II		\$3,000.
c. Packing Group III		\$1,000.
4. Transporting explosives in a motor vehicle containing metal or other articles or materials likely to damage the explosives or any package in which they are contained, without segregating in different parts of the load or securing them in place in or on the motor vehicle and separated by bulkheads or other suitable means to prevent damage	177.835(i)	\$6,500 and up.
5. Failure to attend Class 1 explosive materials during transportation	177.835(k)	\$3,000.
6. Transporting railway track torpedoes outside of flagging kits, in violation of DOT-E 7991	171.2(b), (e)	\$8,700.
7. Failure to carry a hazmat registration letter or number in the transport vehicle	107.620(b)	\$1,000.
8. Transporting Class 7 (radioactive) material having a total transport index greater than 50	177.842(a)	\$6,200 and up.
9. Transporting Class 7 (radioactive) material without maintaining the required separation distance	177.842(b)	\$6,200 and up.
10. Failure to comply with radiation survey requirements of a special permit that authorizes the transportation of Class 7	171.2(b), (e), Special Permit	\$6,200 and up.

(radioactive) material having a total transportation index exceeding 50		
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The baseline penalty amounts in Part II are used as a starting amount or range appropriate for the normal or typical nature, extent, circumstances, and gravity of the probable violations frequently cited in enforcement reports. PHMSA must also consider any additional factors, as provided in 49 U.S.C. 5123(c) and 49 CFR 107.331, including the nature, circumstances, extent and gravity of a violation, the degree of culpability and compliance history of the respondent, the financial impact of the penalty on the respondent, and other matters as justice requires. Consequently, at each stage of the administrative enforcement process, up to and including issuance of a final order or decision on appeal, PHMSA can adjust the baseline amount in light of the specific facts and circumstances of each case.

As part of this analysis, PHMSA reviews the factors outlined in the next section, *Miscellaneous Factors Affecting Penalty Amounts*, the safety implications of the violation, the pervasiveness of the violation, and all other relevant information. PHMSA considers not only what happened as a result of the violation, but also what could have happened as a result of continued violation of the regulations. As a general matter, one or more specific instances of a violation are presumed to reflect a respondent's general manner of operations, rather than isolated occurrences.

PHMSA may draw factors relevant to the statutory considerations from the initial information gathered by PHMSA's Office of Hazardous Materials Safety Field Operations, the respondent in response to an exit briefing, ticket, or Notice of Probable Violation (NOPV), or information otherwise available to us. We will generally apply the specific statutory factors that are outlined in the next section, *Miscellaneous Factors Affecting Penalty Amounts*, in the following order:

1. Select the appropriate penalty amount within a specific baseline or range, with appropriate increases or decreases depending on the packing group or material involved and other information regarding the frequency or duration of the violation, the culpability of the respondent, and the actual or potential consequences of the violation.
2. Apply decreases for a reshipper or carrier that reasonably relied on an offeror's non-compliant preparation of a hazardous materials shipment.
3. Apply increases for multiple counts of the same violation.
4. Apply increases for prior violations of the HMR within the past six years.
5. Apply decreases for corrective actions.
6. Apply decreases for respondent's inability to pay or adverse effect on its ability to continue in business.

After each adjustment listed above, PHMSA will use the new modified baseline to calculate each subsequent adjustment. PHMSA will apply adjustments separately to each individual violation. All penalty assessments will be subject to additional adjustments as appropriate to reflect other matters as justice requires.