

**WEST VIRGINIA**  
**SECRETARY OF STATE**

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TITLE 56

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

two, five and six of chapter twenty-two-a, and chapter twenty-two of this code, and any rule promulgated thereunder, relating to health and safety standards.

2.6. "Independent contractor" has the same meaning as that term is defined at 36 CSR 20.

2.7. "Annual tonnage" means tonnage produced in the previous calendar year, or, in the case of a mine opened or owned less than one full calendar year, the tonnage thus far produced multiplied to an annual amount based on months of operation.

**§56-12-3. Assessment Procedure For Operators.**

3.1. Civil monetary penalty assessments are mandatory

3.2. The amount of a civil monetary penalty assessments will be determined based upon consideration of the following four criteria:

(a) Gravity of the violation;

(b) History of previous violations;

(c) Size of the business charged with a

the inspector or representative of the director, and points allocated accordingly.

(a) Points will be allocated in the following three categories:

(i) Likelihood of an occurrence of an event which the health and safety laws are intended to prevent;

(ii) The severity of the injury which might be expected to result from such an occurrence; and

(iii) The number of persons potentially affected by such an occurrence.

(b) Points will be allocated in the following manner:

(i) Likelihood of occurrence  
Unlikely..... 0

Reasonably likely ... 15 points  
Occurred ..... 30 points

(ii) Severity of injury expected

No lost work days.... 6 points  
Lost/restricted work days 11

(iii) Number of persons potentially affected  
 0.....0 points  
 1 ..... 1 points  
 2..... 2 points  
 3..... 4 points

Over 1.1 to 1.3 ..... 17 points  
 Over 1.3 to 1.5 ..... 20 points  
 Over 1.5 to 1.7 ..... 22 points

3.4. The operator's history of violations over the previous 24 months will be evaluated by the inspector or representative of the director

Over 2.1 ..... 25 points

(ii) Independent contractors:

accordingly.

(a) For mine operators, points will be calculated based upon the average number of violations

Total number of violations  
 1 to 5 ..... 2 points  
 6 to 10 ..... 5 points  
 11 to 15 ..... 8 points

previous 24 months.

16 to 20 ..... 11 points

(b) For independent

21 to 25 ..... 14 points

assessed the maximum amount of five (5) points.

1A-13(b), the total dollar amount of the assessment will be increased by 15%.

Size of Business (annual tonnage)

0 - 100,000 tons ..... 1

(c) If the operator was already working to prevent the violation when

quarter, shall result in the

(i) Likelihood of

5.4. The miner's history of prior violations over the previous thirty-six

(36) months will be evaluated by the inspector or representative of the director, and points allocated accordingly. Points will be

Table 1

Civil Penalty Point Conversion Table For Operators