

EXPLANATORY NOTE

The following Penalty Matrix is to be used by the District in determining what monetary punishment should be assessed against persons who violate Rules of the District or state statutes that are within the jurisdiction of the District. It is also intended to assist the District in being consistent when penalizing violators.

The Penalty Matrix uses a Base Penalty and then applies that Base Penalty to three different components. The three components allow for enhancement of the Base Penalty as warranted by the facts and circumstances of the violation.

The first component addresses the actions of the violator and the degree of relative culpability of the violator. It allows the Board to consider facts that indicate the violation is accidental or unintentional as well as facts that show the actor was well informed in regard to District Rules and state statutes but chose to violate those Rules or statutes. The conduct of the violator will be rated as minor culpability, moderate culpability or, major culpability based upon the facts and circumstances as known to the Board.

The second component addresses the potential or actual harm to the groundwater resources caused by the violation. It allows the District to penalize not only for actual harm but also to penalize for the District being denied the opportunity to apply its rules before the violation and thereby prevent or minimize the likelihood of harm occurring. Once again the violation and the result of the violation is rated as minor, moderate or, major based upon the facts and circumstances known to the Board.

The third component addresses the withholding of funds from the District. The District operates on a very tight budget. Persons failing to pay permit, registration, production or transfer fees are benefitting by keeping money in their pockets and also denying the District of badly needed operating funds. With this component, the violation or the result of the violation is rated as none or no economic impact to the District or minor, moderate or, major impact to the District, based upon the facts and circumstances known to the Board.

The Board should be mindful that all attempts have been made to keep this matrix simple. In all probability it will work well

most of the time. However, there will invariably be circumstances where application of the matrix to the facts of the matter at hand, result in a penalty that is too high or too low. It would be impossible to tailor a matrix that provides a perfect result every time without the matrix resembling the Internal Revenue Code. The matrix is a policy of the District and can be modified or scrapped as circumstances warrant.

There is also included a list of possible violations of District rules. This list is fairly exhaustive but does not contain all the applicable legal citation. Its purpose is to allow the Board to see, at a glance, what violations may occur and contemplate how the matrix will apply to those violations.

CONDUCT OF THE VIOLATOR/RELATIVE CULPABILITY

Minor
1

Moderate
2

Major
3

Minor = First time offense or other factors that mitigate the culpability of the violator as determined by the Board.

Moderate = Previous offense for rule or statute other than the one being considered as the current violation or other factors that aggravate or mitigate the culpability of the violator as determined by the Board.

Major = Previous violation of same statute or rule or other factors that aggravate the culpability of the violator as determined by the Board.

POTENTIAL OR ACTUAL HARM TO GROUNDWATER RESOURCES

Minor
1

Moderate
2

Major
3

Minor = The District being denied the opportunity to apply its rules prior to the drilling, altering or operating of a well where there is no evidence of actual harm to groundwater resources.

Moderate = There is evidence of some localized, temporary, short term harm to groundwater resources.

Major = There is evidence of wide spread and/or long term harm to groundwater resources.

POTENTIAL OR ACTUAL ECONOMIC HARM TO THE DISTRICT

None
0

Minor
\$2/day

Moderate
\$4/day

Major
\$6/day

None = Self reporting, within 14 days after the first day of drilling, altering or operating an exempt well without the proper permit or registration.

Minor = Self reporting, 15 days or more after the first day of drilling, altering or operating an exempt well without the proper permit or registration.

Moderate = Self reporting with 14 days after the first day of drilling, altering or operating a non-exempt well without the proper permit or registration.

Major = All other circumstances where the District has been denied the opportunity to collect a fee for the production of groundwater or the transfer of groundwater out of the District.

Days are counted from the first day of activity by the violator until the violation is terminated or corrected.

$\$BASE \text{ PENALTY} \times (\text{Culpability} + \text{Harm to Groundwater Resources}) = XYZ$
 $XYZ + (\text{Economic Harm Amount}) = \text{total penalty}$

These penalties are in addition to the violator having to pay any applicable registration, permit, production or transfer fees.

3 Examples of penalties calculated with a BASE PENALTY = \$30

Minor Culpability
Minor Harm to Groundwater Resources
No Economic Harm to the District

$\$30 \times (1+1) = \60
 $60 + 0 = \$60 \text{ total penalty}$

Moderate Culpability
Moderate Harm to Groundwater Resources
Minor Economic Harm (Self reported violation 19 days after drilling an exempt well)

$\$30 \times (2+5) = \210
 $210 + (19 \text{ days} \times \$2/\text{day}) = \$248 \text{ total penalty}$

Major Culpability
Major Harm to Groundwater Resources
Minor Economic Harm (Self reported violation 14 days after drilling non-exempt well)

$\$30 \times (3+10) = \390
 $390 + (14 \text{ days} \times \$4/\text{day}) = \$446 \text{ total penalty}$

Same 3 examples with a BASE PENALTY = \$40

$\$40 \times (1+1) = \80 total penalty

$\$40 \times (2+5) = \280
 $280 + (19 \text{ days} \times \$2/\text{day}) = \$318 \text{ total penalty}$

$\$40 \times (3+10) = \520
 $520 + (14 \text{ days} \times \$4/\text{day}) = \$576 \text{ total penalty}$

Same 3 examples with a BASE PENALTY = \$50

$\$50 \times (1+1) = \$100 \text{ total penalty}$

$\$50 \times (2+5) = \350
 $350 + (19 \text{ days} \times \$2/\text{day}) = \$388 \text{ total penalty}$

$\$50 \times (3+10) = \650
 $650 + (14 \text{ days} \times \$4/\text{day}) = \$706 \text{ total penalty}$