

§ 160.420 Notice of proposed determination.

(a) If a penalty is proposed in accordance with this part, the Secretary must deliver, or send by certified mail with return receipt requested, to the respondent, written notice of the Secretary's intent to impose a penalty. This notice of proposed determination must include—

(1) Reference to the statutory basis for the penalty;

(2) A description of the findings of fact regarding the violations with respect to which the penalty is proposed (except that, in any case where the Secretary is relying upon a statistical sampling study in accordance with § 160.536 of this part, the notice must provide a copy of the study relied upon by the Secretary);

(3) The reason(s) why the violation(s) subject(s) the respondent to a penalty;

(4) The amount of the proposed penalty and a reference to the subparagraph of § 160.404 upon which it is based.

(5) Any circumstances described in § 160.408 that were considered in determining the amount of the proposed penalty; and

(6) Instructions for responding to the notice, including a statement of the respondent's right to a hearing, a statement that failure to request a hearing within 90 days permits the imposition of the proposed penalty without the right to a hearing under § 160.504 or a right of appeal under § 160.548 of this part, and the address to which the hearing request must be sent.

(b) The respondent may request a hearing before an ALJ on the proposed penalty by filing a request in accordance with § 160.504 of this part.

[71 FR 8426, Feb. 16, 2006, as amended at 74 FR 56131, Oct. 30, 2009]