**Section 200.935 Process for Assessment of Fines**

a) The Department may assess a penalty for each notice of violation. The civil penalty shall be determined as provided in this Section, considering the person's history of violations, plus the seriousness of the violation, plus the degree of culpability. All fines imposed under the Act and this Section shall be in accordance with this Part.

1) The Person's History of Previous Violations. For purposes of determining the history of violations, the Department will consider only those violations that have a Department's final administrative decision or a final judicial decision affirming the final administrative decision occurring within a 10 year period.

A) A violation shall not be counted if the notice or order is the subject of pending administrative review by the Department under Subpart K or if the time to request a review has not expired. Thereafter, it shall be counted for a 10 year period after the date of the Department's final administrative decision or a final judicial decision affirming the final administrative decision.

B) No violation for which the notice has been vacated shall be counted.

C) History of Violations

i) First violation of the rule, assess $100.

ii) Second violation of the same rule within a 10 year period from the date of issuance of the first violation, assess $250.

iii) Third and subsequent violations of the same rule within a 10 year period from the date of issuance of the first violation, assess $500.

2) The Seriousness of the Violation

A) If the violation caused or could have been expected to cause injury or damage to property, add $0 to $1,000.

B) If the violation caused or could be expected to cause death, personal injury requiring medical attention, or damage to property, add $1,000 to $3,500.

3) The Degree of Culpability of the Person

A) If the violation occurred even though the person used reasonable care, add $0.

B) If the violation occurred due to the person's failure to use reasonable care, add $0 to $250.

C) If the violation occurred as a result of the person's willful, reckless or deliberate conduct, add $250 to $1,000.

4) Administrative Requirements

In the case of a violation of an administrative requirement, the Department will assess a civil penalty of up to $100.

5) Explosive Material Lab Fee

In the case of a violation/incident involving explosive materials that need to be identified by a laboratory for analysis for explosive materials verification, such as explosive materials in a manufactured explosive device or explosive materials in a containment such as a bowl or bag, the Department will assess a civil penalty of $4,600 to cover analysis/regulatory duty costs related to the incident.

b) When the Department issues a Notice of Violation for an incident or Violation with no determination of culpability, an administrative fine will not necessarily be assessed. The Department may impose any penalty that is authorized under law for any violation of the Act or this Part.

c) The Department will reduce and/or terminate violations whenever the Department deems necessary for assistance in the enforcement of the Act. [225 ILCS 210/2011(b)]

(Source: Amended at 48 Ill. Reg. 9600, effective June 24, 2024)