**Section 855.610 Fines and Penalties**

a) In addition to any other action authorized by the Asbestos Abatement Act, the Commercial and Public Building Asbestos Abatement Act, or this Part, the Department may assess fines and penalties against a person for violation of any provision of the Asbestos Abatement Act, the Commercial and Public Building Asbestos Abatement Act, or this Part. The Department shall review each inspection report and stop work order according to criteria provided by this Section to determine whether a fine will be assessed, the amount of any such fine, and whether each day of violation shall constitute a separate violation for purposes of fine assessment.

b) The Department shall consider the following criteria independently and aggregately to determine whether a fine shall be assessed:

1) Whether a stop work order has been issued by the Department, and whether such order was strictly obeyed by the person.

2) Whether the person has previously been cited for a violation of the Asbestos Abatement Act, the Commercial and Public Building Asbestos Abatement Act or this Part, except that any previously cited violation shall not be considered if such violation was held to be unfounded or unapproved by a final order of the Department or by a court of competent jurisdiction, or if any previous citations for violations occurred more than three years prior.

3) Whether the violation is of such nature as to result in the possibility of injury or other harm to the environment, to the person's agents or employees, to the building owner, users, or occupants, or to the general public.

4) Whether the violation appears to be the result of any degree of negligence by the person or by the person's agents or employees.

5) Whether the person demonstrated good faith efforts to correct the violation upon receipt of oral or written notice of the violation and whether such actions in fact corrected the violation.

6) Whether the person is in possession of any falsified asbestos abatement license or certificate or represents themselves as authorized to conduct work without a valid license in a fraudulent manner.

7) Whether the person falsified an inspection for asbestos containing building materials.

c) Criteria to determine the amount of a fine and/or penalty for a violation of any provision of the Asbestos Abatement Act, the Commercial and Public Building Asbestos Abatement Act, or of this Part are as follows. All amounts determined pursuant to these criteria shall be added together to determine the total fine against the person.

1) First violation - the person may be issued a fine of up to $1,000.

2) Each day a violation exists shall constitute a separate or repeat violation.

3) Repeat violation - the person shall be issued a minimum fine of $1,000 plus additional fines calculated according to the following criteria:

A) For each stop work order: $1,000 plus $1,500 per work day during which such order is in effect and during which the condition(s) upon which the order is based remains uncorrected.

B) For each violation which may cause or result in harm or injury to the health or safety of the agents or employees of the person present at the work site (e.g., improper protective equipment or a contaminated clean room): $100 multiplied by the number of such agents or employees present at the work site at any time on the date of the violation.

C) For each violation which may cause or result in harm or injury to the health or safety of the building owners, users, or occupants of the building (e.g., a tear in a polyethylene barrier between a work area and an occupied area): $100 multiplied by the number of persons present at the work site or in the building at any time on the date of violation.

D) For each violation which may cause or result in contamination with asbestos fibers of any part of the building other than the work site (e.g., a tear in a polyethylene barrier): $1,000.

4) For a third violation of a provision of the Asbestos Abatement Act, the Commercial and Public Building Asbestos Abatement Act, or this Part, a licensee, in addition to the fines and penalties in subsection (c)(3) of this Section, may have his or her license denied, suspended or revoked.

5) Notwithstanding any other provision of this Part, the Department may at any time, upon a finding of five or more violations during the same inspection that may cause or result in harm or injury to the health and safety of persons, assess a fine and/or penalty pursuant to subsections (c)(3) and (4) of this Section.

d) The Department shall serve notice of fine and/or penalty assessments, and provide the same rights and opportunity for hearing, as provided in Section 6(c) of the Asbestos Abatement Act [105 ILCS 105/6(c)], Section 20 of the Commercial and Public Building Asbestos Abatement Act [225 ILCS 207/20], and this Section. In the event a person fails to request a hearing within the time provided in the notice, the person shall be deemed to have waived the right to an administrative hearing, and the fine and/or penalty shall be due immediately upon issuance of a final order by the Department in the action.

e) All fine and/or penalty assessments which are upheld in whole or in part by final order of the Department shall be due in full at the conclusion of the time period for filing for administrative review pursuant to the Administrative Review Law [735 ILCS 5/Art. III], unless the person has within that time filed proceedings in administrative review specifically appealing the fine and/or penalty assessment and unless the court has stayed enforcement of the fine and/or penalty assessment.