**Section 107.1200 Commencement of Civil Penalty Proceeding**

a) The Department, by the Director or his authorized representative, begins a civil penalty proceeding by serving a Notice of Intent to Assess Civil Monetary Penalty, in accordance with Section 107.11, on a person charging that person with having knowingly committed an act which is a violation of one or more provisions of the IHMTR.

b) A Notice of Intent to Assess Civil Monetary Penalty issued under this Section shall include:

1) Notice of the provisions(s) of the IHMTR or settlement agreement which the respondent is believed to have violated;

2) A brief description of the manner in which the respondent is believed to have violated the IHMTR or settlement agreement;

3) Notice of the maximum amount of civil penalty for which the respondent may be liable;

4) Notice of the amount of the civil penalty sought to be assessed by the Department; pursuant to 92 Ill. Adm. Code 401;

5) A description of the manner in which the respondent shall make payment in accordance with Section 107.317 of any money to the State;

6) A statement that the respondent may request a conference with the Department, by verbal or written request to the Director, to review and discuss the alleged violation and civil penalty, and of the procedures for requesting a conference;

7) A statement that if a settlement cannot be reached within 90 days, a Notice of Probable Violation will be served upon the respondent, and the respondent will have an opportunity for a hearing as provided by Section 11 of the Act and the IHMTR;

8) A statement that if the respondent does not reply to the Notice of Intent to Assess Civil Monetary Penalty within 30 days after its service upon the respondent, the failure of the respondent to reply constitutes a waiver of its right to appear and contest the allegations, without further notice to the respondent, and authorizes the Secretary, without further notice to the respondent, to find the facts to be as alleged in the Notice of Intent to Assess Civil Monetary Penalty and order the assessment of the civil penalty stated in the Notice; and

9) A statement that respondent's failure to pay a civil monetary penalty as ordered by the Secretary may result in revocation or suspension by the Illinois Secretary of State of the registration of vehicles either owned by the respondent or, regardless of ownership, that were the subject of violations by the respondent of the Illinois Hazardous Materials Transportation Regulations, pursuant to 625 ILCS 5/3-704(b).

c) In the event that the Department and the respondent do not enter a settlement agreement following service of a Notice of Intent to Assess Civil Monetary Penalty, the Department by the Director shall serve a Notice of Probable Violation on the respondent.

d) A Notice of Probable Violation issued under this Section includes:

1) A statement of the provision(s) of the IHMTR or of a settlement agreement which the respondent is believed to have violated;

2) A statement of the factual allegations upon which the proposed civil penalty is being sought;

3) Notice of the maximum amount of civil penalty for which the respondent may be liable;

4) Notice of the amount of the civil penalty sought to be assessed by the Department;

5) A description of the manner in which the respondent shall make payment of any money to the State in accordance with Section 107.317;

6) A statement of respondent's right to request a hearing and the procedures for requesting a hearing in accordance with Section 107.318; and

7) A statement of respondent's right to appear at the hearing and to present relevant written or oral explanations, information and materials in answer to the allegations or in mitigation of the penalty.

e) A settlement of a civil penalty proceeding may be effectuated at any time upon agreement of the parties, shall be reduced to writing by the Department and signed by the parties. Terms of the settlement may include a reduction in the amount of the proposed civil penalty, and may include training and procedural requirements agreed upon by the respondent and Department. Training and procedural requirements may be agreed upon to increase awareness of and compliance with 92 Ill. Adm. Code 107 through 180, and 397, and those portions of 49 CFR adopted by reference.

(Source: Amended at 26 Ill. Reg. 8919, effective June 5, 2002)