**Section 1480.480 Standards for the Assessment of Civil Penalties**

a) In determining whether to assess civil penalties, the Commission shall consider the following factors:

1) The lack of mitigating circumstances, including:

A) Whether the violation's occurrence was attributable to causes beyond the respondent's control, rather than to respondent's fault or intent; and

B) Whether the violation's occurrence was attributable to action by the Commission that precluded compliance;

2) The lack of good faith or intent, including:

A) The past compliance history of the respondent; and

B) Whether a violation is the result of willful conduct or comes about through mistake, inadvertence or negligence;

3) The financial ability of the respondent to pay the penalties assessed;

4) The degree to which the violative conduct was harmful to the public; and

5) The financial benefit accruing to the respondent as a result of its illegal activities.

b) The Commission's consideration shall be limited to only those violations for which evidence exists. It shall be the burden of the respondent to establish a compelling reason why the civil penalty should be mitigated.

c) Persons found to have committed one or more violations for which civil penalties may be assessed shall be entitled to have those civil penalties determined in accordance with the following procedure:

1) A numerical value from 0 to 5 shall be assigned to each of the following factors:

A) Lack of mitigating circumstances;

B) Lack of good faith or intent;

C) Financial ability to pay;

D) Degree to which the violative conduct was harmful to the public; and

E) Financial benefit accruing to the respondent as a result of its illegal activities.

2) The values assigned shall be summed. The sum shall be divided by the maximum possible weighted value per violation (25) and then multiplied by $2,500 per violation. The result will be the civil penalty the Commission shall assess against the respondent.

d) Notwithstanding subsection (c), in the context of an Informal Settlement in Lieu of Formal Proceeding, when the settlement would conserve the resources of the Commission and expedite the disposition of the Commission's caseload without jeopardizing the regulatory goals of the Act and this Part, a lesser penalty may be assessed.

e) Notwithstanding subsection (c), in the context of enforcement by administrative citations in accordance with Subpart U, the Commission may establish reduced maximum fines for violations, and the fine imposed shall not exceed the amount of the fine indicated on the administrative citation.

(Source: Amended at 38 Ill. Reg. 5821, effective March 14, 2014)