**Section 1710.145 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 which 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) If it is determined that a civil penalty shall be assessed, the amount of the civil penalty shall be determined in accordance with the following procedure:

1) A numerical value of from 0 to 5 shall be assigned to each of the factors specified in subsections (a)(1), (2), (3), (4), and (5) above;

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

c) 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.

(Source: Added at 22 Ill. Reg. 16200, effective August 31, 1998)