

**567—10.30(455B) Criteria for screening and assessing administrative penalties.** All formal enforcement actions are processed through the environmental protection division administrator of the department. The administrator shall screen each case to determine the most equitable and efficient means of redressing and abating a violation. In screening a violation to determine which cases may be appropriate for administrative assessment of penalties or for purposes of assessing administrative penalties, the department will consider among other relevant factors the following:

**10.30(1) *Economic benefit.*** Costs saved or likely to be saved by a violator's noncompliance. Where a violator realizes an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties to offset the economic benefit. Reasonable estimates of economic benefit should be made where clear data are not available.

**10.30(2) *Gravity of the violation.*** Factors include but are not limited to:

- a. The actual or threatened harm to the environment or public health and safety.
- b. Involvement of toxic or hazardous substances or potential long-term effects of the violation.
- c. The degree to which ambient or source-specific standards are exceeded, where pertinent.
- d. Federal program priorities, size of facility, or other pertinent factors.
- e. Whether the violation is repeated or whether it violates an administrative or court order.
- f. Whether the type of violation threatens the integrity of a regulatory program.
- g. Expenses or efforts by the government in detecting, documenting, or responding to a violation.

**10.30(3) *Culpability.*** Factors include but are not limited to:

- a. The degree of intent or negligence. The standard of care required by the laws of the state of Iowa will be considered.
- b. Whether the case involves false reporting of required information, or tampering with monitoring devices.
- c. Whether the violator has taken remedial measures or mitigated the harm caused by the violation.

**10.30(4) *Deterrent.*** Whether the assessment of administrative penalties appears to be the only or most appropriate way to deter future violations, either by the person involved or by others similarly situated.

**10.30(5) *Other relevant factors.*** The department will consider other relevant factors which arise from the circumstances of each case.

**10.30(6) *Department discretion.*** This screening procedure shall not limit the discretion of the department to refer any case to the attorney general for legal action, nor does this procedure require the commission or the director to pursue an administrative remedy before seeking a remedy in the courts of this state.

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