

875—34.3 (91A) Calculation of penalty.

34.3(1) The commissioner shall assess the penalty with due consideration for the size of the employer's business, the gravity of the violation(s), the good faith of the employer, and the history of previous violations by granting appropriate penalty reductions.

34.3(2) The gross penalty for each distinguishable violation shall be \$500. The following are examples of distinguishable violations:

a. If the act or omission occurs during five consecutive pay periods affecting a single employee, there are 5 distinguishable violations.

b. If the act or omission occurs during a single pay period affecting 50 employees, there are 50 distinguishable violations.

34.3(3) The size of the business shall be considered as follows:

Number of Employees	Penalty Reduction
1-25	25%
26-100	15%
101-250	5%
251+	0%

34.3(4) Gravity shall be considered by giving a 20 percent penalty reduction for a low-gravity violation or a 10 percent reduction for a medium-gravity violation. High-gravity violations shall receive no gravity reduction. The gravity of a violation shall be based primarily on its actual or potential harm to employees. Following are examples of gravity determinations:

a. A low-gravity violation includes any merely technical violation of Iowa Code chapter 91A that does not substantially prejudice any employee.

b. A high-gravity violation includes any violation causing financial injury to an employee.

34.3(5) Good faith shall be considered by giving a 15 percent penalty reduction when there is sufficient evidence that the employer made earnest attempts to be well-informed about and in compliance with Iowa Code chapter 91A. A good-faith reduction shall not be given if the employer committed a violation(s) after having received a complaint(s) or warning(s) about a practice clearly in violation of Iowa Code chapter 91A.

34.3(6) History shall be considered by giving a 10 percent penalty reduction if the violation(s) was isolated. Consideration shall be given to prior civil penalty complaints and may include prior wage claims. A history reduction shall not be given if the violation(s) for which the penalty is being calculated occurred over an extended period of time.

34.3(7) If the employer does not, upon request of the commissioner, provide information relevant to the penalty assessment, the commissioner may deny any penalty reduction for which the employer does not provide responsive information.