**Section 4190.205 Penalty Amounts**

a) Maximum Amounts. The maximum penalty for any misdemeanor violation of Section 3 of the Act is $5,000 per disturbance. The maximum penalty for any felony violation of Section 3 is $10,000 per disturbance.

b) Determination of Penalty Amount, Mitigation, and Remission. The Department may assess a penalty amount less than the maximum amount of penalty and may offer to mitigate or remit the penalty.

1) Determination of the penalty amount and/or a proposal to mitigate or remit the penalty may be based upon any of the following factors:

A) Agreement by the person being assessed a civil penalty to return to the State all archaeological or paleontological resources removed;

B) Agreement by the person being assessed a civil penalty to assist the Director in activity to preserve, restore, or otherwise contribute to the protection and study of archaeological or paleontological resources in Illinois;

C) Agreement by the person being assessed a civil penalty to provide information which will assist in the detection, prevention, or prosecution of violations of the Act;

D) Demonstration of hardship or inability to pay, provided that this factor shall only be considered when the person being assessed a civil penalty has not been found to have previously violated the Act or regulations promulgated thereunder;

E) Determination that the person being assessed a civil penalty did not willfully commit the violation;

F) Determination that the proposed penalty would constitute excessive punishment under the circumstances;

G) Determination of other mitigating circumstances appropriate to consideration in reaching a fair and expeditious assessment.

2) When the penalty is for a violation which may have had an effect on a known religious site on public lands, the Director should consult with and consider the interest of the specific affected group prior to proposing to mitigate or remit the penalty.