**Section 845.360 Fines and Penalties**

a) In addition to any other action authorized by the Act or this Part, *the Department is authorized to assess administrative penalties against any licensee or any other person who violates* the *Act or* this Part. (Section 12.2(b) of the Act) The Department shall determine whether a fine will be assessed and the amount of any such fine.

b) The Department shall consider the following criteria independently and aggregately to determine whether a fine shall be assessed:

1) Whether the Department issued a stop work order and whether the person strictly obeyed the order;

2) Whether the person has previously been cited for a violation of the Act or this Part, except that any previously cited violation shall not be considered if the violation was held to be unfounded by a final order of the Department or by a court, or if any previous citations for violations occurred more than 3 years ago;

3) Whether the violation is of such nature as to result in the possibility of injury or other harm to the environment; to the person's agents or employees; to the building owner, users or occupants; or to the general public;

4) Whether the violation appears to be the result of any degree of negligence by the person or by the person's agents or employees;

5) Whether the person demonstrated good faith efforts to correct the violation upon receipt of oral or written notice of the violation and whether such actions in fact corrected the violation;

6) Whether the person has falsified any lead license or certificate or represents himself or herself as authorized to conduct work without a valid license in a fraudulent manner; and

7) Whether the person falsified any record keeping information required by the Act or this Part.

c) Criteria to determine the amount of a fine or penalty for a violation of any provision of the Act or of this Part are as follows. All amounts determined pursuant to these criteria shall be added together to determine the total fine against the person.

1) First violation − the person may be issued a fine of up to $5,000.

2) Each day that a violation exists shall constitute a separate or repeat violation.

3) Repeat violation − the person may be issued a minimum fine of $5,000 plus additional fines calculated according to the following:

A) For each violation that may cause or result in harm or injury to the health or safety of the agents or employees of the person present: $100 multiplied by the number of agents or employees present at any time on the date of the violation.

B) For each violation that may cause or result in harm or injury to the health or safety of the building owners or users, occupants of the building or the general public: $100 multiplied by the number of persons present in or around the regulated facility at any time on the date of violation.

C) For each violation that may cause or result in contamination with lead dust or debris of any part of the regulated facility other than the work area: $5,000.

D) For each violation that may cause or result in contamination with lead dust or debris of any surrounding areas to the regulated facility: $5,000.

4) For a third violation of a provision of the Act or this Part, a licensee or approved training program provider, in addition to the fines and penalties in subsection (c)(3), may have his/her license or Department approval denied, suspended or revoked in accordance with Sections 845.350 and 845.355.

5) Notwithstanding any other provision of this Part, the Department may at any time, upon a finding of 5 or more violations during the same inspection that may cause or result in harm or injury to the health and safety of persons, assess a fine or penalty pursuant to subsection (c)(3).

d) The Department shall serve notice of fine and/or penalty assessments, and shall provide the same rights and opportunity for hearing as provided in Section 12.2 of the Act and this Section. In the event that a person fails to request a hearing within the time provided in the notice, the person shall be deemed to have waived the right to an administrative hearing, and the fine and/or penalty assessments that are upheld in whole or in part by final order of the Department shall be due in full at the conclusion of the time period for filing for administrative review pursuant to the Administrative Review Law.

e) All fine or penalty assessments that are upheld in whole or in part by final order of the Department shall be due in full at the conclusion of the time period for filing for administrative review pursuant to the Administrative Review Law, unless the person has within that time filed proceedings in administrative review specifically appealing the fine or penalty assessment and unless the court has stayed enforcement of the fine or penalty assessment.

(Source: Amended at 43 Ill. Reg. 2440, effective February 8, 2019)