

15A NCAC 18C .1906 CONSIDERATIONS IN ASSESSING ADMINISTRATIVE PENALTIES

In determining the amount of the assessment, the Department or its delegates shall consider the following criteria and shall cite the provisions that are applicable:

- (1) nature of the violation and the degree and extent of the harm, including the following:
 - (a) for a violation of the North Carolina Drinking Water Act, Article 10 of Chapter 130A, and the rules in this Subchapter:
 - (i) type of violation,
 - (ii) type of contaminant involved,
 - (iii) duration,
 - (iv) cause (whether resulting from a negligent, reckless or intentional act, or omission),
 - (v) potential effect on public health and the environment,
 - (vi) effectiveness of responsive measures taken by the violator,
 - (vii) damage to private property, and
 - (viii) size of the water system and population exposed;
 - (b) for a violation of an order issued under the North Carolina Drinking Water Act, Article 10 of Chapter 130A:
 - (i) subject matter of order,
 - (ii) duration,
 - (iii) cause (whether resulting from a negligent, reckless or intentional act, or omission),
 - (iv) type of violation, if any,
 - (v) potential effect on public health and the environment, and
 - (vi) effectiveness of responsive measures taken by violator;
 - (c) for refusing to allow an authorized representative of the Commission for Public Health, any local board of health, or the Department a right of entry as provided for in G.S. 130A-17:
 - (i) type of other violation, if any,
 - (ii) duration of refusal, and
 - (iii) potential effect on public health and the environment;
 - (d) for failure to give adequate public notice as required by G.S. 130A-324:
 - (i) inadequacy of type of notice,
 - (ii) misleading in nature,
 - (iii) delay in providing notice, and
 - (iv) potential effect on public health from failure to give adequate notice;
- (2) cost of rectifying any damage; and
- (3) the violator's previous record in complying or not complying with the North Carolina Drinking Water Act, Article 10 of Chapter 130A and the rules in this Subchapter.

History Note: Authority G.S. 130A-22(f); 130A-17; 130A-324; Eff. September 1, 1979; Amended Eff. April 1, 2014; October 1, 1984; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015.