

REVISOR'S NOTE: This section formerly appeared as NR § 8-1416(e).

In subsection (b) of this section, the former reference to the Department's findings being "on the basis of information available to it" is deleted as unnecessary.

The only other changes are in style.

9-342. CIVIL PENALTIES.

(A) CIVIL ACTION.

IN ADDITION TO BEING SUBJECT TO AN INJUNCTIVE ACTION UNDER THIS SUBTITLE, A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF ANY RULE, REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER THIS SUBTITLE IS LIABLE TO A CIVIL PENALTY NOT EXCEEDING \$10,000, TO BE COLLECTED IN A CIVIL ACTION BROUGHT BY THE DEPARTMENT. EACH DAY A VIOLATION OCCURS IS A SEPARATE VIOLATION UNDER THIS SECTION.

(B) ADMINISTRATIVE ACTION.

(1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN EQUITY AND AFTER A HEARING AT WHICH A VIOLATION IS FOUND TO EXIST, THE DEPARTMENT MAY IMPOSE A PENALTY FOR VIOLATION OF ANY PROVISION OF THIS SUBTITLE OR ANY RULE, REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER THIS SUBTITLE.

(2) THE PENALTY IMPOSED UNDER THIS SUBSECTION SHALL BE:

(I) UP TO \$500 FOR EACH DAY OF VIOLATION, BUT NOT EXCEEDING \$10,000 TOTAL; AND

(II) ASSESSED WITH CONSIDERATION GIVEN TO:

1. THE WILLFULNESS OF THE VIOLATION;
2. THE DAMAGE TO, INJURY TO, AND IMPAIRMENT OF THE USE OF THE WATERS OF THIS STATE;
3. THE COST OF CLEAN UP;
4. THE NATURE AND DEGREE OF INJURY TO OR INTERFERENCE WITH GENERAL WELFARE, HEALTH, AND PROPERTY;
5. THE SUITABILITY OF THE WASTE SOURCE TO ITS GEOGRAPHIC LOCATION, INCLUDING PRIORITY OF LOCATION;
6. THE AVAILABLE TECHNOLOGY AND