

§ 113A-64.2. Remission of civil penalties.

(a) A request for remission of a civil penalty imposed under G.S. 113A-64 may be filed with the Commission within 30 days of receipt of the notice of assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on which the assessment was based.

(b) The following factors shall be considered in determining whether a civil penalty remission request will be approved:

- (1) Whether one or more of the civil penalty assessment factors in G.S. 113A-64(a)(3) were wrongly applied to the detriment of the petitioner.
- (2) Whether the petitioner promptly abated continuing environmental damage resulting from the violation.
- (3) Whether the violation was inadvertent or a result of an accident.
- (4) Whether the petitioner had been assessed civil penalties for any previous violations.
- (5) Whether payment of the civil penalty will prevent payment for necessary remedial actions or would otherwise create a significant financial hardship.
- (6) The assessed property tax valuation of the petitioner's property upon which the violation occurred, excluding the value of any structures located on the property.

(c) The petitioner has the burden of providing information concerning the financial impact of a civil penalty on the petitioner and the burden of showing the petitioner's financial hardship.

(d) The Commission may remit the entire amount of the penalty only when the petitioner has not been assessed civil penalties for previous violations and payment of the civil penalty will prevent payment for necessary remedial actions.

(e) The Commission may not impose a penalty under this section that is in excess of the civil penalty imposed by the Department. (2015-241, s. 14.26(c); 2021-158, s. 5(a).)