

1 calendar year, an investor-owned public utility has violated an emissions limitation set
2 out in G.S. 143-215.107D, the violation shall be considered to be continuous from the
3 day that the collective emissions first exceeded the emissions limitation set out in
4 G.S. 143-215.107D through the end of the calendar year and the Secretary may assess a
5 separate civil penalty for each day.

6 (c) In determining the amount of the penalty the Secretary shall consider the
7 factors set out in G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall
8 apply to civil penalty assessments that are presented to the Commission for final agency
9 decision.

10 (d) The Secretary shall notify any person assessed a civil penalty of the
11 assessment and the specific reasons therefor by registered or certified mail, or by any
12 means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed within 30
13 days of receipt of the notice of assessment.

14 (e) Requests for remission of civil penalties shall be filed with the Secretary.
15 Remission requests shall not be considered unless made within 30 days of receipt of the
16 notice of assessment. Remission requests must be accompanied by a waiver of the right
17 to a contested case hearing pursuant to Chapter 150B and a stipulation of the facts on
18 which the assessment was based. Consistent with the limitations in G.S. 143B-282.1(c)
19 and (d), remission requests may be resolved by the Secretary and the violator. If the
20 Secretary and the violator are unable to resolve the request, the Secretary shall deliver
21 remission requests and his recommended action to the Committee on Civil Penalty
22 Remissions of the Environmental Management Commission appointed pursuant to
23 G.S. 143B-282.1(c).

24 (f) If any civil penalty has not been paid within 30 days after notice of
25 assessment has been served on the violator, the Secretary shall request the Attorney
26 General to institute a civil action in the Superior Court of any county in which the
27 violator resides or has his or its principal place of business to recover the amount of the
28 assessment, unless the violator contests the assessment as provided in subdivision (4) of
29 this subsection, or requests remission of the assessment in whole or in part as provided
30 in subdivision (5) of this subsection. If any civil penalty has not been paid within 30
31 days after the final agency decision or court order has been served on the violator, the
32 Secretary shall request the Attorney General to institute a civil action in the Superior
33 Court of any county in which the violator resides or has his or its principal place of
34 business to recover the amount of the assessment. Such civil actions must be filed
35 within three years of the date the final agency decision or court order was served on the
36 violator.

37 (g) Repealed by Session Laws 1996, Second Extra Session c. 18, s. 27.34(f).

38 (h) The clear proceeds of penalties provided for in this section shall be remitted
39 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

40 **SECTION 2.** This act becomes effective July 1, 2007, and applies to
41 offenses committed on or after that date.