§ 74-87. Penalty for violations.

(a) Civil Penalties. –

(1) a. A civil penalty of not more than five thousand dollars ($5,000) may be assessed by the Department against any person who fails to secure a valid exploration permit prior to engaging in the exploration for uranium, as required by G.S. 74-48. Each day of continuing violation shall constitute a separate violation and a civil penalty of not more than five thousand dollars ($5,000) per day may be assessed for each day the violation continues.

b. Any person with an exploration permit who violates any of the provisions of this Article, any rules promulgated under it, or any of the terms and conditions of his exploration permit shall be subject to a civil penalty of not more than two hundred fifty dollars ($250.00). Each day of a continuing violation shall constitute a separate violation. Prior to the assessment of any civil penalty, written notice of the violation shall be given pursuant to G.S. 74-84. The notice shall describe the violation with reasonable particularity, shall specify a time period reasonably calculated to permit the violator to complete actions to correct the violations, and shall state that failure to correct the violations within that period will be considered an aggravating factor in the determination of the amount of the civil penalty, if any, to be assessed.

(2) The Department shall determine the amount of the civil penalty to be assessed. In determining the amount of the penalty, the Department shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by his noncompliance, the violator's state of mind in committing the violation, the prior record of the violator in complying or failing to comply with this Article, and any corrective action taken by the violator. The Department shall notify the person conducting exploration activity of the assessment of the civil penalty by certified mail, return receipt requested or by other reasonable means calculated to provide actual notice. This notice shall describe the violations for which the civil penalty has been assessed. The person conducting exploration activity may appeal the assessment of any civil penalty assessed pursuant to this section in accordance with the procedures set forth in G.S. 74-85.

(3) If payment of any civil penalty assessed pursuant to this section is not received by the Department or if no administrative hearing is requested within 30 days following notice to the person of the assessment of the civil penalty, or within 30 days following denial of appeal pursuant to G.S. 74-85, the Department shall refer the matter to the Attorney General for the institution of a civil action in the name of the State in the superior court of the county in which the violation is alleged to have occurred to recover the amount of the penalty.

(4) The clear proceeds of civil penalties collected pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Injunctive Relief. – In addition to other remedies, the Department may request the Attorney General to institute any appropriate action or proceedings to prevent, restrain, correct or abate any violation of this Article or any rules promulgated under it.

(c) Criminal Penalties. – In addition to other penalties provided by this Article, any person who engaged in exploration activity in willful violation of the provisions of this Article or of any rules promulgated under it or who willfully misrepresented any material fact in any action taken pursuant to this Article shall be guilty of a Class 3 misdemeanor and, upon conviction thereof, shall only be fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) for each offense. Each day of continued violation after written notification shall be considered a separate offense. (1983, c. 279, s. 1; 1993, c. 539, s. 556; 1994, Ex. Sess., c. 24, s. 14(c); 1998-215, s. 43.)