§ 401.96 Factors to be applied in fixing penalty amount.

(a) Consideration shall be given to the following factors in deciding the amount of any penalty or any settlement in lieu of penalty:

(1) Previous violation, if any, of the Commission’s Compact and regulations;
(2) Whether the violation was unintentional or willful and deliberate;
(3) Whether the violation caused adverse environmental consequences and the extent of any harm;
(4) The costs incurred by the Commission or any signatory party relating to the failure to comply with the Commission’s Compact and regulations;
(5) The extent to which the violator has cooperated with the Commission in correcting the violation and remediating any adverse consequences or harm that resulted therefrom; and
(6) Whether the failure to comply with the Commission’s Compact and regulations was economically beneficial to the violator.

(b) The Commission retains the right to waive any penalty or reduce the amount of the penalty should it determine that, after consideration of the factors in paragraph (a) of this section, extenuating circumstances justify such action.

§ 401.97 Enforcement of penalties.

Any penalty imposed by the Commission shall be paid within 30 days or such further time period as shall be fixed by the Commission. The Executive Director and Commission counsel are authorized to take such action as may be necessary to assure enforcement of this subpart. If a proceeding before a court becomes necessary, the action of the Commission in determining a penalty amount shall constitute the penalty amount recommended by the Commission to be fixed by the court pursuant to §14.17 of the Compact.

§ 401.98 Settlement by agreement in lieu of penalty.

A possible violator may request settlement of a penalty proceeding by agreement. If the Executive Director determines that settlement by agree-