

WAC 16-228-1115 When can the department issue a civil penalty without first issuing a notice of correction? (1) Pursuant to RCW 43.05.100 a notice of correction may be issued by the department when they become aware of conditions and/or conduct that are not in compliance with the applicable laws and rules enforced by the department. The issuance of a notice of correction by the department shall not constitute a previous violation for purposes of WAC 16-228-1110(2), but may, at the discretion of the department, be considered as an aggravating factor for the purposes of WAC 16-228-1120(2).

(2) Prior to issuing a civil penalty for a violation of chapter 15.58 or 17.21 RCW, and the rules adopted under the authority of chapter 15.58 or 17.21 RCW the department shall comply with the requirements of RCW 43.05.110. RCW 43.05.110 provides that the department of agriculture may issue a civil penalty provided for by law without first issuing a notice of correction if: (1) The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) compliance is not achieved by the date established by the department in a previously issued notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date; (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars; or (4) the violation was committed by a business that employed fifty or more employees on at least one day in each of the preceding twelve months.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. WSR 03-22-029, § 16-228-1115, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 17.21 and 15.58 RCW. WSR 01-01-058, § 16-228-1115, filed 12/12/00, effective 1/12/01.]