

**WAC 173-408-180 Civil penalty.** (1) Any person who violates any requirement of chapter 70A.540 RCW or this chapter may incur a civil penalty of up to \$10,000 per day for each violation, pursuant to RCW 70A.15.3160.

(2) The department will waive penalties under RCW 70A.15.3160, in accordance with this subsection, in the event the owner or operator of the landfill is actively taking corrective actions to control any methane exceedances.

(a) At least 30 calendar days prior to the department's issuance of a civil penalty, the department will send the owner or operator of the landfill a notice of violation, in accordance with RCW 70A.15.3010.

(b) To demonstrate eligibility for waiver of a civil penalty under this subsection, the owner or operator of the landfill must provide the following information to the department within 30 calendar days of issuance of the notice of violation:

(i) A description of all corrective action(s) that have been initiated to control methane exceedances;

(ii) A description of all corrective action(s) that are being planned to control methane exceedances, including an implementation schedule of the actions;

(iii) Any supporting documentation associated with the corrective actions; and

(iv) A written certification meeting the requirements of WAC 173-408-150.

(c) If the owner or operator does not provide the information required by (b) of this subsection within 30 calendar days of issuance of the notice of violation, and has not received a written extension by the department, the department may proceed with issuance of a civil penalty as appropriate.

(d) The department will determine whether the owner or operator is eligible for waiver of a civil penalty on the basis of the information submitted pursuant to (b) of this subsection.

(i) The department may request additional information from the owner or operator before making a final determination. If the owner or operator does not respond to the department's request for additional information within 30 calendar days, the department may proceed with issuance of a civil penalty as appropriate.

(ii) The department will waive issuance of a civil penalty for the violation(s) identified in the notice of violation if the owner or operator demonstrates to the department's satisfaction that the corrective actions that have been initiated, or that are being planned, resolve the violation(s).

(iii) The department may condition its waiver of a civil penalty under this subsection on the owner or operator's continued implementation and/or completion of the identified corrective action(s). If the owner or operator does not comply with any such condition(s), the department may reconsider its prior determination of eligibility for waiver.

(e) If the department waives issuance of a civil penalty under this subsection, the department may subsequently request submission of documentation regarding the implementation status of the identified corrective action(s). If the owner or operator does not respond to the department's subsequent request(s) within 30 calendar days, the department may reconsider its prior determination of eligibility for waiver.

(3) A "local authority," as defined in WAC 173-408-020, may waive penalties under RCW 70A.15.3160, in accordance with subsection (2) of this section, in the event the owner or operator of the landfill is actively taking corrective actions to control any methane exceedances.

[Statutory Authority: Chapter 70A.540 RCW. WSR 24-11-052 (Order 22-15), § 173-408-180, filed 5/13/24, effective 6/13/24.]