

RCW 90.46.270 Violations—Civil penalty—Procedure. (1) Except as provided in RCW 43.05.060 through 43.05.080, 43.05.100, 43.05.110, and 43.05.150, any person who:

(a) Generates any reclaimed water for a use regulated under this chapter and distributes or uses that water without a permit;

(b) Violates the terms or conditions of a permit issued under this chapter; or

(c) Violates rules or orders adopted or issued pursuant to this chapter,

shall incur, in addition to any other penalty as provided by law, a penalty in an amount of up to ten thousand dollars per day for every violation. Each violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be a separate and distinct violation. Every act of commission or omission which procures, aids, or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty herein provided for. The penalty amount shall be set in consideration of the previous history of the violator and the severity of the violation's impact on public health, the environment, or both, in addition to other relevant factors.

(2) A penalty imposed by a final administrative order is due upon service of the final administrative order. A person who fails to pay a penalty assessed by a final administrative order within thirty days of service of the final administrative order shall pay, in addition to the amount of the penalty, interest at the rate of one percent of the unpaid balance of the assessed penalty for each month or part of a month that the penalty remains unpaid, commencing within the month in which the notice of penalty was served, and reasonable attorneys' fees as are incurred if civil enforcement of the final administrative order is required to collect penalty.

(3) A person who institutes proceedings for judicial review of a final administrative order assessing a civil penalty under this chapter shall place the full amount of the penalty in an interest bearing account in the registry of the reviewing court. At the conclusion of the proceeding the court shall, as appropriate, enter a judgment on behalf of the lead agency and order that the judgment be satisfied to the extent possible from moneys paid into the registry of the court or shall enter a judgment in favor of the person appealing the penalty assessment and order return of the moneys paid into the registry of the court together with accrued interest to the person appealing. The judgment may award reasonable attorneys' fees for the cost of the attorney general's office in representing the lead agency.

(4) If no appeal is taken from a final administrative order assessing a civil penalty under this chapter, the lead agency may file a certified copy of the final administrative order with the clerk of the superior court in which the person resides, or in Thurston county, and the clerk shall enter judgment in the name of the lead agency and in the amount of the penalty assessed in the final administrative order.

(5) When the penalty herein provided for is imposed by the department of ecology, it shall be imposed pursuant to the procedures set forth in RCW 43.21B.300. All penalties imposed by the department of ecology pursuant to RCW 43.21B.300 shall be deposited into the state treasury and credited to the general fund.

(6) When the penalty is imposed by the department of health, it shall be imposed pursuant to the procedures set forth in RCW

43.70.095. All receipts from penalties shall be deposited into the health reclaimed water account. The department of health shall use revenue derived from penalties only to provide training and technical assistance to reclaimed water system owners and operators. [2009 c 456 § 14.]