

**WAC 194-24-070 Violations, assessment of civil penalties, and review of penalty decisions.**

(1) First violations (notice of violation): When the department has determined that a manufacturer or distributor has violated chapter 19.260 RCW or this chapter, the director or their designee will issue a warning in the form of a notice of violation (NOV) for the first violation. The NOV will specify the time by which the manufacturer or distributor must cure the violation. If compliance is not achieved by the date established in the NOV, the department may consider the manufacturer's or distributor's continued noncompliance to constitute a subsequent violation.

(2) Repeat violations (notice of repeat violation and intent to assess penalties): If the department determines that the person receiving the NOV has committed a subsequent violation of chapter 19.260 RCW, the director or their designee may issue a notice of repeat violation and intent to assess penalties (NOI). The NOI informs the manufacturer or distributor of the portions of chapter 19.260 RCW and this chapter that have been violated and will include a description of how penalties will be calculated. A manufacturer or distributor receiving an NOI has twenty-five days from the date notice is given to request an administrative hearing by following the process specified on the NOI. If the request for hearing is not timely filed with the department, the manufacturer or distributor waives its right to a hearing and the director or their designee may issue a final order assessing penalties described in the NOI.

(3) Penalty assessment: Repeat violations are subject to a civil penalty of not more than two hundred fifty dollars a day, and the department may consider each unit of a noncompliant product to be a separate violation.

(4) Unpaid penalties: Interest will accrue on civil penalties pursuant to RCW 43.17.240 if and when the debt becomes past due. If a penalty has not been paid by the due date, the department may assign the debt to a collection agency as authorized by RCW 19.16.500 or take other action to pursue collection as authorized by law. If referred to a collection agency, the department may add a reasonable fee, payable by the debtor, to the outstanding debt for the collection agency fee.

(5) Administrative hearings: After receiving a timely request for an administrative hearing, the department may refer the matter to the office of administrative hearings (OAH). Administrative hearings will be conducted in accordance with the Administrative Procedure Act, chapter 34.05 RCW, the model rules of procedure, chapter 10-08 WAC, and the procedural rules adopted in this section. In the case of a conflict between the model rules of procedure and the procedural rules adopted in this section, the procedural rules adopted in this section take precedence.

(6) Initial orders to become final orders. Initial orders issued by the presiding officer will become final without further agency action unless, within twenty days:

(a) The director determines that the initial order should be reviewed; or

(b) A party to the proceeding files a petition for administrative review of the initial order. Upon occurrence of either event, notice shall be given to all parties to the proceeding.

(7) Reply to a petition for review. If a timely petition for review of an initial order is filed, other parties to the proceeding may file a reply to the petition for review. The reply shall be filed with the office where the petition for review was filed within twenty days of the date of service of the petition and copies shall be served upon

all other parties or their representatives at the time the reply is filed.

(8) Agency review of an initial order. If the director determines the initial order should be reviewed or a petition for administrative review has been timely filed, the director may do one or more of the following: Allow the parties to present oral arguments as well as the written arguments; require the parties to specify the portions of the record on which the parties rely; require the parties to submit additional information by affidavit or certificate; remand the matter to the administrative law judge for further proceedings; and require a departmental employee to prepare a summary of the record for the director to review. The director or their designee shall issue a final order that can affirm, modify, or reverse the initial order. The final order will be served on all parties.

(9) Judicial review: A final order entered pursuant to this section is subject to judicial review pursuant to RCW 34.05.510 through 34.05.598.

[Statutory Authority: RCW 19.260.070 and 19.260.040. WSR 20-21-083, § 194-24-070, filed 10/19/20, effective 11/19/20. Statutory Authority: RCW 19.260.070. WSR 20-03-013, § 194-24-070, filed 1/6/20, effective 2/6/20. Statutory Authority: Chapter 19.260 RCW. WSR 07-14-092, § 194-24-070, filed 6/29/07, effective 7/30/07.]