

RCW 70A.15.3160 Civil penalties—Excusable excess emissions.

(1) (a) Except as provided in RCW 43.05.060 through 43.05.080 and 43.05.150, and in addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of this chapter, chapter 70A.25, 70A.60, 70A.450, 70A.535, or 70A.540 RCW, RCW 76.04.205, or any of the rules in force under such chapters or section may incur a civil penalty in an amount not to exceed ten thousand dollars per day for each violation. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation. Enforcement actions related to violations of RCW 76.04.205 must be consistent with the provisions of RCW 76.04.205.

(b) Any person who fails to take action as specified by an order issued pursuant to this chapter shall be liable for a civil penalty of not more than ten thousand dollars for each day of continued noncompliance.

(2) (a) Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.

(b) The maximum penalty amounts established in this section may be increased annually to account for inflation as determined by the state office of the economic and revenue forecast council.

(3) Each 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 same penalty. The penalties provided in this section shall be imposed pursuant to RCW 43.21B.300.

(4) (a) Except as provided in (b) of this subsection, all penalties recovered under this section by the department or the department of natural resources shall be paid into the state treasury and credited to the air pollution control account established in RCW 70A.15.1010 or, if recovered by the authority, shall be paid into the treasury of the authority and credited to its funds. If a prior penalty for the same violation has been paid to a local authority, the penalty imposed by the department under subsection (1) of this section shall be reduced by the amount of the payment.

(b) All penalties recovered for violations of chapter 70A.60 RCW must be paid into the state treasury and credited to the refrigerant emission management account created in RCW 70A.60.050.

(5) To secure the penalty incurred under this section, the state or the authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in RCW 60.36.050.

(6) Public or private entities that are recipients or potential recipients of department grants, whether for air quality related activities or not, may have such grants rescinded or withheld by the department for failure to comply with provisions of this chapter.

(7) In addition to other penalties provided by this chapter, persons knowingly underreporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than ninety days late with such payments may be subject to a penalty equal to three times the amount of the original fee owed.

(8) The department shall develop rules for excusing excess emissions from enforcement action if such excess emissions are unavoidable. The rules shall specify the criteria and procedures for the department and local air authorities to determine whether a period of excess emissions is excusable in accordance with the state implementation plan. [2022 c 179 s 15. Prior: 2021 c 317 s 25; 2021 c 315 s 16; 2021 c 132 s 1; 2020 c 20 s 1112; 2019 c 284 s 5; 2013 c 51 s 6; 1995 c 403 s 630; 1991 c 199 s 311; 1990 c 157 s 1; 1987 c 109 s 19; 1984 c 255 s 2; 1973 1st ex.s. c 176 s 2; 1969 ex.s. c 168 s 53. Formerly RCW 70.94.431.]

Severability—2021 c 317: See note following RCW 70A.535.005.

Finding—Intent—2019 c 284: See note following RCW 70A.60.060.

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Finding—1991 c 199: See note following RCW 70A.15.1005.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.