

RCW 80.50.150 Enforcement of compliance—Penalties. (1) The courts are authorized to grant such restraining orders, and such temporary and permanent injunctive relief as is necessary to secure compliance with this chapter, rules adopted under this chapter, a site certification agreement issued pursuant to this chapter, a national pollutant discharge elimination system (hereafter in this section, NPDES) permit or waste discharge permit issued by the council under chapter 90.48 RCW, any air permit issued under RCW 80.50.040(12), or any other permit issued by the council.

(2) The court may assess civil penalties in an amount not less than one thousand dollars per day nor more than twenty-five thousand dollars per day for each day of construction or operation in material violation of this chapter, or in violation of any rules adopted under this chapter, or in material violation of any site certification agreement issued pursuant to this chapter, or in violation of any NPDES permit or waste discharge permit issued by the council pursuant to chapter 90.48 RCW, or in violation of any air permit issued pursuant to RCW 80.50.040(12), or in violation of any other permit issued by the council.

(3) Willful violation of any provision of this chapter is a gross misdemeanor.

(4) Willful or criminally negligent, as defined in RCW 9A.08.010(1)(d), violation of any provision of a NPDES permit or waste discharge permit issued by the council pursuant to chapter 90.48 RCW, or any air permit issued by the council pursuant to RCW 80.50.040(12) or any emission standards promulgated by the council in order to implement the federal clean air act and the state implementation plan with respect to energy facilities under the jurisdiction provisions of this chapter, or any other permit issued by the council, is a gross misdemeanor, and upon conviction thereof shall be punished by a fine of up to twenty-five thousand dollars per day and costs of prosecution.

(5) Any person knowingly making any false statement, representation, or certification in any document in any form, notice, or report required by a NPDES or waste discharge permit, or in any form, notice, or report required for or by any air permit issued pursuant to RCW 80.50.040(12), or any other permit issued by the council, is guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars and costs of prosecution.

(6) Civil proceedings to enforce this chapter may be brought by the attorney general or the prosecuting attorney of any county affected by the violation on his or her own motion or at the request of the council. Criminal proceedings to enforce this chapter may be brought by the prosecuting attorney of any county affected by the violation on his or her own motion or at the request of the council.

(7) The remedies and penalties in this chapter, both civil and criminal, are cumulative and are in addition to any other penalties and remedies available at law, or in equity, to any person. [2015 3rd sp.s. c 39 s 2; 2013 c 23 s 283. Prior: 1979 ex.s. c 254 s 2; 1979 c 41 s 1; 1977 ex.s. c 371 s 12; 1970 ex.s. c 45 s 15.]

Findings—Intent—2015 3rd sp.s. c 39: "The legislature recognizes that the energy facility site evaluation council is responsible for enforcing compliance with this chapter, rules adopted pursuant to this chapter, and site certification agreements and any permits it issues

to energy facilities under its jurisdiction. The statutes related to enforcement by the energy facility site evaluation council have not been amended to reflect the increased penalty amounts that both the department of ecology and local air pollution control authorities may impose for similar violations of environmental laws. In addition, it is not altogether clear whether the department of ecology has authority to issue additional penalties under RCW 90.56.330 for oil spills at facilities under the jurisdiction of the energy facility site evaluation council. Furthermore, the legislature recently eliminated the mitigation process from certain environmental appeals because it represented an unnecessary step in the penalty process. The legislature did not amend the enforcement statutes of the energy facility site evaluation council to eliminate the mitigation process for penalties issued by the council.

The legislature intends to amend the energy facility site evaluation council's enforcement statutes to make them more consistent with similar enforcement statutes of the department of ecology and local air pollution control authorities, and to clarify the appeal process. The legislature also intends to clarify that additional penalties under RCW 90.56.330 for oil spills may be imposed by the department of ecology at energy facilities under the jurisdiction of the energy facility site evaluation council. Nothing in RCW 80.50.150 and 80.50.155 limits the department of ecology's ability to impose natural resource damage assessments pursuant to RCW 90.56.370, regardless of whether or not the energy facility is under the jurisdiction of the energy facility site evaluation council." [2015 3rd sp.s. c 39 s 1.]