

AMENDATORY SECTION

SECTION 3.11 CIVIL PENALTIES

- (a) Any person who violates any of the provisions of chapter 70.94 RCW or any of the rules or regulations in force pursuant thereto, may incur a civil penalty in an amount not to exceed \$((~~19,609.00~~)) 20,131.00, per day for each violation.
- (b) Any person who fails to take action as specified by an order issued pursuant to chapter 70.94 RCW or Regulations I, II, and III of the Puget Sound Clean Air Agency shall be liable for a civil penalty of not more than \$((~~19,609.00~~)) 20,131.00, for each day of continued noncompliance.
- (c) Within 30 days of the date of receipt of a Notice and Order of Civil Penalty, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. To be considered timely, a mitigation request must be actually received by the Agency, during regular office hours, within 30 days of the date of receipt of a Notice and Order of Civil Penalty. This time period shall be calculated by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or legal holiday, and then it is excluded and the next succeeding day that is not a Saturday, Sunday, or legal holiday is included. The date stamped by the Agency on the mitigation request is prima facie evidence of the date the Agency received the request.
- (d) A mitigation request must contain the following:
 - (1) The name, mailing address, telephone number, and telefacsimile number (if available) of the party requesting mitigation;
 - (2) A copy of the Notice and Order of Civil Penalty involved;
 - (3) A short and plain statement showing the grounds upon which the party requesting mitigation considers such order to be unjust or unlawful;
 - (4) A clear and concise statement of facts upon which the party requesting mitigation relies to sustain his or her grounds for mitigation;
 - (5) The relief sought, including the specific nature and extent; and
 - (6) A statement that the party requesting mitigation has read the mitigation request and believes the contents to be true, followed by the party's signature.

The Control Officer shall remit or mitigate the penalty only upon a demonstration by the requestor of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

- (e) Any civil penalty may also be appealed to the Pollution Control Hearings Board pursuant to chapter 43.21B RCW and chapter 371-08 WAC. An appeal must be filed with the Hearings Board and served on the Agency within 30 days of the date of receipt of the Notice and Order of Civil Penalty or the notice of disposition on the application for relief from penalty.
- (f) A civil penalty shall become due and payable on the later of:
 - (1) 30 days after receipt of the notice imposing the penalty;
 - (2) 30 days after receipt of the notice of disposition on application for relief from penalty, if such application is made; or
 - (3) 30 days after receipt of the notice of decision of the Hearings Board if the penalty is appealed.
- (g) If the amount of the civil penalty is not paid to the Agency within 30 days after it becomes due and payable, the Agency may bring action to recover the penalty in King County Superior Court or in the superior court of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.
- (h) Civil penalties incurred but not paid shall accrue interest beginning on the 91st 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 31st day following final resolution of the appeal.
- (i) To secure the penalty incurred under this section, the Agency shall have a lien on any vessel used or operated in violation of Regulations I, II, and III which shall be enforced as provided in RCW 60.36.050.

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SECTION 3.25 FEDERAL REGULATION REFERENCE DATE

Whenever federal regulations are referenced in Regulation I, II, or III, the effective date shall be July 1, (~~2018~~) [2019](#).