

WAC 16-200-7403 Application of RCW 43.05.100 and 43.05.110—Issuance of a civil penalty without first issuing a notice of correction. (1) Pursuant to RCW 43.05.100, a notice of correction may be issued by the department when they become aware of conditions and/or conduct that are not in compliance with the applicable laws and rules enforced by the department. The issuance of a notice of correction by the department shall not constitute a previous violation for purposes of WAC 16-200-7402(2), but may, at the discretion of the department, be considered as an aggravating factor for the purposes of WAC 16-200-7404(2).

(2) Prior to issuing a civil penalty for a violation of chapter 15.54 RCW and/or the rules adopted under it, the department shall comply with the requirements of RCW 43.05.110. RCW 43.05.110 allows the department of agriculture to issue a civil penalty provided for by law without first issuing a notice of correction if:

(a) The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given a previous notice of the same or similar type of violation of the same statute or rule; or

(b) Compliance is not achieved by the date established by the department in a previously issued notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date; or

(c) The violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars; or

(d) The violation was committed by a business that employed fifty or more employees on at least one day in each of the preceding twelve months.

[Statutory Authority: Chapters 15.54, 34.05 RCW. WSR 03-02-100, § 16-200-7403, filed 1/2/03, effective 2/2/03.]