

DRINKING WATER PROGRAM POLICY

DEQ Reference No. DW-03-02
Subject: Drinking Water Penalty Policy
Effective Date: Upon signature of the Director
Citation/Authority: Idaho Statute 39-108

Regional Office Input:

All regional offices were contacted by e-mail about the policy on April 9, 2003. A list of contacted personnel is provided and includes regional office administrators, drinking water program managers, and drinking water program personnel.

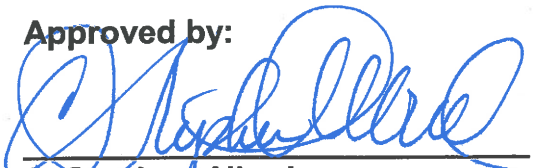
Attached is a message from the Idaho Falls Regional Office Administrator requesting that penalty negotiations not be eliminated. To clarify this issue, the goal of the drinking water program is to reduce or eliminate the time spent on penalty negotiations and focus efforts on public health risk reduction.

Background and Purpose:

Based on Senior Management's directives to collect penalties closer to the assessed amount and to consider the ability to pay, the drinking water program revised their penalty assessment practice by Memorandum on August 30, 2001. The practice assessed a flat fine of \$500 plus any avoided analytical costs for systems under 10,000 population. This policy supercedes the August 30, 2001 practice.

The purpose of the revised policy is to assess penalties for each violation as required by Idaho Statute 39-108(a)(i). The previous practice did not assess a fine for each violation.

Approved by:


C. Stephen Allred

May 19, 2003
Date

Drinking Water Penalty Policy

Goals of Penalty Policy:

- 1) Consistency and simplicity
- 2) Assess penalties closer to the collected amount
- 3) Consider the ability to pay
- 4) Eliminate/reduce penalty negotiations

Penalties assessed based on size and per violation*

| Size of System (# of systems): | First Offender Penalty | Repeat Offender** Penalty |
|---|---|------------------------------|
| <500 persons served (1847) | \$50 per violation plus avoided costs for monitoring or fees | \$1000 per violation |
| Between 500 and 3,300 persons served (150) | \$200 per violation plus avoided costs for monitoring or fees | \$2,000 per violation |
| Between 3,300 and 10,000 persons served (28) | \$500 per violation plus avoided costs for monitoring or fees | \$5,000 per violation |
| Above 10,000 persons served (15) | \$1,000 per violation plus avoided costs for monitoring or fees | \$10,000 per violation |

*Idaho Statute 39-108(a)(i) states that the notice of violation shall state the amount of civil penalty claimed for each violation.

** Repeat Offender is any system that has either received an NOV or been under formal enforcement within 5 years of the date of referral for enforcement.

Examples:

Example 1: *Small community system serving 75 people in a trailer park is referred for the following violations: Pb/Cu initial tap sample missed monitoring, NO3 missed monitoring, 1 TCR MCL, failure to notify public on both counts and failure to notify DEQ on both counts. System does not have a certified operator, did not file a CCR for 2001, and did not pay their 2001 and 2002 fees. The system has not had an NOV or CO in the past 5 years.*

Example 2: *A community water system serving 2000 people is referred for the following violations: (same as example 1) Pb/Cu initial tap sample missed monitoring, NO3 missed monitoring for 1 well, 1 TCR MCL, failure to notify public on both counts and failure to notify*

DEQ on both counts. System does not have a certified operator, did not file a CCR for 2001, and did not pay their 2001 and 2002 fees. The system has not had an NOV or CO in the past 5 years.

Example 3: *A community water system serving 5000 people is referred for the following violations: (same as example 1) Pb/Cu initial tap sample missed monitoring, NO3 missed monitoring for 1 well, 1 TCR MCL, failure to notify public on both counts and failure to notify DEQ on both counts. System does not have a certified operator, did not file a CCR for 2001, and did not pay their 2001 and 2002 fees. The system has not had an NOV or CO in the past 5 years.*

Example 4: *The same system in example 1 did have a previous CO. The violations are the same as in example 1 but the Repeat Offender Penalty now applies*

| Violation Type | Example 1: <500 people \$50/violation | Example 2: >500 & <3,300 people \$200/violation | Example 3: >3,300 & <10,000 people \$500/violation | Example 4: <500 people & repeat offender \$1000/violation |
|---|---|--|---|---|
| Pb & Cu Initial Tap (\$9.50 each Pb & \$9.50 each Cu) | \$145 | \$580 | \$1260 | \$1,095 |
| NO3 FTM* (\$16) | \$66 | \$216 | \$516 | \$1,016 |
| FTN Dept for Pb/Cu | \$50 | \$200 | \$500 | \$1,000 |
| FTN* Dept for NO3 | \$50 | \$200 | \$500 | \$1,000 |
| Public Notification for NO3 | \$50 | \$200 | \$500 | \$1,000 |
| Public Notification for Pb/Cu | \$50 | \$200 | \$500 | \$1,000 |
| MCL* for TCR* | \$50 | \$200 | \$500 | \$1,000 |
| Operator Certification | \$50 | \$200 | \$500 | |
| CCR* | \$50 | \$200 | \$500 | \$1,000 |
| Fees | \$200 | \$4,200 | \$10,500 | \$1,150 |
| Total: | \$761 | \$6,396 | \$15,276 | \$9,261 |

*FTM = failure to monitor

FTN = failure to notify

TCR = total coliform rule

MCL = maximum contaminant level

CCR = consumer confidence report