

310 Law Mini Trainings: Violations

A person is found to be in violation of the Act if they initiate a project without a permit, perform work outside the scope of their permit, place a junked motor vehicle in the stream, or violate emergency procedures. The process for a district to determine a violation and proceed with penalties is outlined in Rule 19 of the [Adopted Rules](#) and [MCA 75-7-123](#).

Upon finding a person in violation of the Act, the district may assess criminal or civil penalties. The criminal penalties include a misdemeanor with a fine not to exceed \$500. Civil penalties are more common and include a fee of up to \$500 per day the violator remains in violation, not to exceed \$15,000 ([MCA 3-10-301](#)). This fee does not include the costs associated with restoration of the site to the district's specifications.

Once a violation is determined, the district must send the violator a certified letter describing the specific violation and the district's finding of noncompliance, the district's selected penalty including the date the fee commences and the date by which corrective action must be taken, and the district's intent to seek judicial enforcement if not paid. It is recommended that all these details be discussed during a public meeting and captured in the meeting minutes.

Frequently Asked Questions:

Q: Who is the civil penalty against?

A: Either the landowner, applicant, or both can be found in violation and assessed penalties.

Q: Do we have to wait for a complaint before proceeding with a violation?

A: No. Complaints are how we normally find out about a violation, but if the district becomes aware of a potential violation through another avenue, they can proceed without a formal complaint being filed.

Q: Does a CD always have to assess penalties?

A: No. Some districts have a minimal fee they automatically assess if it's found to be a violation. But in many circumstances the violation is unintentional. The district may use their discretion on when to assess penalties. However, it is recommended they develop a standard process and follow it, so they are not seen to show favoritism.

Q: We sent them the letter, but we haven't heard back, or they are refusing to take corrective action. What do we do now?

A: Turn it over to your county attorney or other legal services for the district. The rest of the process takes place in judicial court.