

From: [WHEELER Sarah](#)
To: [ROOT Jenny](#)
Subject: FW: CAFO penalties in Div 12?
Date: Monday, February 11, 2013 2:14:52 PM
Attachments: [Div 12 Alternate penalties red-lined.docx](#)

Here it is – sorry about that!

From: WHEELER Sarah
Sent: Monday, February 11, 2013 11:18 AM
To: CARLOUGH Les; ROOT Jenny; BACHMAN Jeff
Subject: RE: CAFO penalties in Div 12?

The statute (see below) still provides for a \$500 penalty, and per Jane, DEQ has authority to issue penalties for CAFOs, so I think we need to keep 340-012-0155(1)(e). Given the language of the statute, and to align the language with the other sections of this rule, I propose revising it as in the attached.

The only weird thing is that the statute says “in addition to other penalties” that DEQ may assess, but the rule has it “in lieu of.” I don’t know if that’s because of the MOA with ODA, but it doesn’t appear that the statute has changed since 1991, so I am guessing we should keep it as-is. Let me know if you want me to do any more investigating into this and if so, I’ll see if Beth Moore knows why it was structured this way.

--Sarah

468B.220 Civil penalty for violation of permit requirement. Any owner or operator of a confined animal feeding operation who has not applied for or does not have a permit required by ORS 468B.050 shall be assessed a civil penalty of \$500 in addition to other penalties that the Director of the Department of Environmental Quality may assess. [Formerly 468.690]

From: HICKMAN Jane
Sent: Friday, February 08, 2013 12:58 PM
To: WHEELER Sarah
Subject: RE: CAFO penalties in Div 12?

Hi, Sarah, Unfortunately, I don’t have any experience with CAFO penalties. I would check the statutes to see if any changes have been made to the penalty amount. You might ask Beth Moore here at HQ; she is our CAFO program liaison with ODA. Beth might be able to put you in touch with ODA’s CAFO program coordinator, too. But it may be enough just to check the statute and see if the amount is still \$500. DEQ can do enforcement on CAFOs even though ODA is the lead, so it makes sense to include the CAFO penalty in Division 12.
Jane

From: WHEELER Sarah
Sent: Thursday, February 07, 2013 1:43 PM
To: HICKMAN Jane

Subject: FW: CAFO penalties in Div 12?

Hi Jane – As part of our Div 12 rulemaking, Les asked me to check the alternate penalties section – see below. Jeff said you might know whether this is still relevant...thanks in advance if you do!

Sarah

From: WHEELER Sarah
Sent: Wednesday, January 30, 2013 9:07 AM
To: BACHMAN Jeff
Subject: CAFO penalties in Div 12?

"Any owner or operator of a confined animal feeding operation that has not applied for or does not have a permit required by ORS 468B.050 will be assessed a civil penalty of \$500"

This is in the alternate civil penalty section of Div 12. Do we still need it, and if so, does it need updating/revising?

Thanks,
Sarah

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