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State NPDES Authority Statutes:

Oklahoma



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A National Agricultural Law Center Research Publication
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Current through the 2022 legislative session.

§ 27A-2-6-201. Short Title – Oklahoma Pollutant Elimination System Act – Construction and Application.

A. This part shall be known and may be cited as the “Oklahoma Pollutant Discharge Elimination System Act”.

B. Nothing contained in the Oklahoma Pollutant Discharge Elimination System Act shall expand the authority of the Department of Environmental Quality beyond jurisdictional areas specified in the Oklahoma Environmental Quality Act. Agricultural and oil and gas activities shall not be subject to the Oklahoma Pollutant Discharge Elimination System Act except as specifically provided in Section 1-3-101 of this title.

§ 27A-2-6-201. Definitions.

For purposes of the Oklahoma Pollutant Discharge Elimination System Act:

1. “Discharge” includes but is not limited to a discharge of a pollutant or pollutants, and means any addition of any pollutant to waters of the state from any point source regulated by the Department of Environmental Quality;
2. “Effluent limitation” means any established restriction on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into waters of the state, including schedules of compliance;
3. “Organization” means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company,



association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons;

4. “Point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft, from which pollutants or wastes are or may be discharged. The term “point source” does not include agricultural stormwater discharges and return flows from irrigated agriculture;

5. “Pretreatment” means the reduction of the amount of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing into a treatment works;

6. “Schedule of compliance” means a schedule of remedial measures including but not limited to an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard;

7. “Serious bodily injury” means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

8. “Storm water” means rainwater runoff, snow melt runoff, and surface runoff and drainage.

§ 27A-2-6-203. Powers and Duties of Board – Authority of Department.

A. The Board shall have the power and duty to promulgate rules implementing or effectuating the Oklahoma Pollutant Discharge Elimination System Act. Such rules may incorporate by reference any applicable rules, regulations and policies of the United States Environmental Protection Agency adopted under the Clean Water Act. Any such rules shall be in reasonable accord with the United States Environmental Protection Agency regulations and policies, including but not limited to rules which:

1. Allow the inclusion of technology-based effluent limitations and require water-quality-related effluent limitations in discharge permits to the extent necessary to protect the designated and existing beneficial uses of the waters of the state and to comply with the requirements of the Clean Water Act;

2. Establish pretreatment standards and standards for the removal of toxic materials and pollutants from effluent discharges and establish procedures and programs necessary to implement and enforce such standards and ensure compliance with applicable federal regulations;



3. Apply applicable national standards of performance promulgated pursuant to Section 306 of the Clean Water Act in establishing terms and conditions of Executive Director issued permits;
4. Prohibit or control the discharge of pollutants into wells within the jurisdiction of the Department of Environmental Quality;
5. Develop or assist in development of any effluent limitation or other limitation, prohibition, or effluent regulation;
6. Establish procedures, including, but not limited to, notice and opportunity for public hearing, which provide that whenever the owner or operator of any point source discharge can demonstrate to the satisfaction of the Executive Director that any effluent limitation proposed for the control of the thermal component of any discharge from such source will require effluent limitations more stringent than necessary to assure the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife in and on the body of water into which the discharge is to be made, the Executive Director may impose an effluent limitation for such discharge, taking into account the interaction of such thermal component with other pollutants, that will assure the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife in and on that body of water;
7. Ensure that the public and any other state, the waters of which may be affected, receive notice of each application for a discharge permit;
8. Ensure that any other state, the waters of which may be affected by the activities allowed by a proposed permit, may submit written recommendations on the application to the Department. The rules shall provide that if such recommendations or any parts thereof are not adopted, the Department will notify the affected state in writing and shall provide the reasons therefor;
9. Establish a fee schedule to implement the provisions of the Oklahoma Pollutant Discharge Elimination System Act; and
10. Establish management standards for sludge which are no less stringent than applicable federal regulations and establish procedures and requirements necessary to ensure compliance with applicable federal laws.

B. The Department shall have authority to:

1. Require the owner or operator of any system for the treatment, storage, discharge or transport of pollutants to establish, maintain and submit plans, specifications, records, and other data relative to disposal systems or any part thereof, in connection with the issuance of discharge permits or in connection with any permit, purposes or requirements of the Oklahoma Pollutant Discharge Elimination System Act, to make reports, to install, calibrate, use and maintain



monitoring equipment or methods including biological monitoring methods, take samples of effluents in such manner as may be prescribed, and provide such other information as may be reasonably required;

2. Take all actions which may be necessary or incidental to implement and maintain a pollutant discharge permit program and sludge program, including the authority to assume and obtain authorization to implement and maintain a portion of the National Pollutant Discharge Elimination System state permit program and a state sludge program pursuant to Section 402 and other provisions of the Clean Water Act and other applicable federal law. The Executive Director shall issue permits for the discharge of pollutants and storm water from facilities and activities within its areas of environmental jurisdiction specified in Section 1-3-101 of this title;

3. Take necessary and appropriate actions to revoke and reissue, modify, suspend, or otherwise administer and enforce discharge permits and sludge permits issued by the United States Environmental Protection Agency which are transferred to the Department upon federal authorization of the Department's program; and

4. Exercise all necessary incidental powers which are necessary and proper to carry out the purposes of the Oklahoma Pollutant Discharge Elimination System Act and to comply with the requirements of the Clean Water Act and the requirements of the United States Environmental Protection Agency regulations promulgated thereunder.

§ 27A-2-6-204. Authority of Executive Director – Issuance of Discharge Permits, Conditions – Availability of Records, Reports or Other Information.

A. Pollutant discharge permits issued by the Executive Director may include schedules of compliance and such conditions as the Executive Director may prescribe which:

1. Prevent, control or abate pollution, including such water-quality-related and technology-based effluent limitations as are necessary to protect the water quality and existing and designated beneficial uses of the waters of the state;

2. Require application of best practicable control technology currently available, best conventional pollutant control technology, or best available technology economically achievable or such other limitations as the Executive Director may prescribe;

3. Require compliance with national standards of performance, toxic and pretreatment effluent standards;

4. Set limitations or prohibitions designed to prohibit the discharge of toxic pollutants in toxic amounts or to require pretreatment of pollutants;



5. Set interim compliance dates which are enforceable without otherwise showing a violation of an effluent limitation or harm to water quality;
6. Set terms and conditions for sludge and land application of wastewater and for impoundments in accordance with rules promulgated by the Board; and
7. Comply with the provisions of the Oklahoma Pollutant Discharge Elimination System Act and the requirements of the Clean Water Act.

B. The Executive Director shall:

1. Have authority to issue individual permits and authorizations under general discharge permits for pollutants and stormwater and sludge as authorized by the Oklahoma Pollutant Discharge Elimination System Act;
2. Issue permits for fixed terms not to exceed five (5) years;
3. Have the authority to require in permits issued to publicly or privately owned treatment works conditions requiring the permittee to give notice to the Department of new introductions into such works of pollutants from any source which would be a new source as defined in Section 306 of the Clean Water Act or from a source which would be a point source subject to Section 301 of the Clean Water Act if it were discharging directly to waters of the state, a substantial change in volume or character of pollutants being introduced into such works by a source introducing pollutants into such works at the time of issuance of the permit, or such other conditions as may be required under the Clean Water Act or state law;
4. Have the authority to ensure compliance with Sections 204(b), 307, and 308 and other provisions of the Clean Water Act and with other applicable federal law;
5. Have all necessary and incidental authority to comply with the requirements of the Clean Water Act and requirements of the United States Environmental Protection Agency set forth in duly promulgated federal regulations adopted under the Clean Water Act;
6. Have the authority to terminate or modify permits issued by the Executive Director for cause, including but not limited to:
 - a. violation of any condition of the permit, including but not limited to conditions related to monitoring requirements, entry and inspections,
 - b. obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts, or
 - c. change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;



7. Have all necessary authority to implement and enforce Department programs and requirements established by the Environmental Quality Board in duly promulgated rules, including but not limited to the authority to implement and enforce a statewide pretreatment program required under federal law and regulations and to implement and enforce requirements applicable to dischargers into municipal separate storm sewer systems;

8. Have all necessary or incidental authority to investigate and abate violations of permits issued by the Executive Director, violations of administrative orders, violations of duly promulgated rules, and violations of the Oklahoma Pollutant Discharge Elimination System Act, and shall have all necessary and incidental authority to apply sanctions through administrative proceedings for violations, including but not limited to violations of requirements to obtain permits, terms and conditions of permits, effluent standards and limitations and water quality standards, and violations of requirements for recording, reporting, monitoring, entry, inspection and sampling; and

9. Have authority to require permits for indirect discharges or other introductions of pollutants to publicly owned treatment works, impose pretreatment standards and other requirements upon users of such treatment works, and to enforce such permits and requirements pursuant to Section 2-6-206 of this title.

C. Authorized employees or representatives of the Department shall, upon presentation of credentials, have:

1. A right of entry to, upon, or through any private or public premises upon which an effluent or sludge source is or may be located or in which any records are required to be maintained;
2. Access to at any reasonable time for the purposes of reviewing and copying any records required to be maintained;
3. Authority to inspect any monitoring equipment, methods, disposal systems or other facilities or equipment which may be required; and
4. Access for the purpose of inspecting and sampling any effluent streams or any discharge of pollutants to waters of the state or to treatment systems discharging into waters of the state or for inspection and sampling of any sludge source, storage, beneficial use, reuse or disposal site.

D. The Executive Director shall not issue a discharge permit if the permit:

1. Would authorize the discharge of a radiological, chemical or biological warfare agent, or high-level radioactive waste;
2. Would, in the judgment of the Secretary of the Army acting through the Chief of Engineers, result in the substantial impairment of anchorage and navigation of



any waters of the United States as those waters are defined in the Clean Water Act;

3. Is objected to in writing by the Administrator of the United States Environmental Protection Agency or his designee, pursuant to any right to object which is granted to the Administrator under Section 402(d) of the Clean Water Act; or

4. Would authorize a discharge from a point source which is in conflict with a plan approved under Section 208(b) of the Clean Water Act.

E. Copies of records, plans, reports or other information required by the Department shall be submitted upon request and shall be subject to and made available for inspection at reasonable times to any authorized representative of the Department of Environmental Quality upon showing of proper credentials. Any authorized representative of the Department may examine any records or memoranda pertaining to discharges, treatment, or other limitations set by permit, order or duly promulgated rules of the Board.

F. Any records, reports, or information obtained pursuant to this section shall be available to the public, except that upon submission of sufficient evidence showing that records, reports, or information, or particular parts thereof, other than effluent data, if made public would divulge methods or processes entitled to protection as trade secrets of such person, such record, report, or information, or particular portion thereof shall be considered confidential in accordance with the purposes of the Uniform Trade Secrets Act.⁷ Nothing in this subsection shall prohibit the Department or an authorized representative of the Department, including, but not limited to, any authorized contractor, from disclosing records, reports, or information to other officers, employees, or authorized representatives of the State of Oklahoma or the United States concerned with carrying out provisions of state or federal law under their respective jurisdictions or within their respective authorities.

G. The Executive Director and any person designated by him to approve all or portions of permits, or to modify, revoke or reissue permits or to make any final decisions in the first instance or on appeal relating to permits or enforcement actions related thereto, shall be required to meet all requirements of Section 304 of the Clean Water Act⁸ and federal regulations promulgated thereunder.

§ 27A-2-6-205. Unlawful Discharge – Permit Requirements – Authority of Department.

A. Except as otherwise provided in subsection B of this section, it shall be unlawful for any facility, activity or entity regulated by the Department of Environmental Quality pursuant to the Oklahoma Pollutant Discharge Elimination System Act to discharge any pollutant into waters of the state or elsewhere without first obtaining a permit from the Executive Director.



B. The Environmental Quality Board shall promulgate rules which prescribe permit requirements applicable to discharges composed entirely of stormwater. The rules may require permits on a case-by-case basis, exempt categories of discharges, or provide a schedule for obtaining a permit. No later than the date that the Department is to receive authorization to administer a state National Pollutant Discharge Elimination Systems program, the Board shall have promulgated rules for stormwater discharges which comply with Environmental Protection Agency requirements for approval of the state National Pollutant Discharge Elimination Systems program.

C. The Department of Environmental Quality shall have the authority to determine whether a facility, activity or entity regulated by the Department pursuant to the Oklahoma Pollutant Discharge Elimination System Act is required to obtain a stormwater permit. No other state agency shall condition any license, permit or other form of authorization issued by that agency upon the applicant obtaining a stormwater permit from the Department if the applicant is not required to obtain a stormwater permit pursuant to Department statutes and rules promulgated by the Board.

§ 27A-2-6-206. Violations – Enforcement Procedures – Penalties.

A. Whenever there are reasonable grounds to believe that there has been a violation of any of the provisions of the Oklahoma Pollutant Discharge Elimination System Act, any permit, any rule, or any order of the Executive Director, the Executive Director shall have the authority and powers to proceed as specified in the Administrative Procedures Act unless otherwise provided herein. Provided, however, that provisions of this section for written notice, enforcement hearing, and administrative orders shall not be conditions precedent for the Department to seek action in the district court as provided by the Oklahoma Pollutant Discharge Elimination System Act or other applicable provisions of law.

B. The Oklahoma Pollutant Discharge Elimination System Act shall not in any way impair or in any way affect a person's right to recover damages for pollution in a court of competent jurisdiction. Any person having any interest connected with the geographic area or waters or water system affected, including but not limited to any aesthetic, recreational, health, environmental, pecuniary or property interest, which interest is or may be adversely affected, shall have the right to intervene as a party in any administrative proceeding before the Department, or in any civil proceeding, relating to violations of the Oklahoma Pollutant Discharge Elimination System Act or rules, permits or orders issued hereunder.

C. Whenever on the basis of any information available, the Department finds that any person or entity regulated by the Department is in violation of any act, rule, order, permit, condition or limitation implementing the Oklahoma Pollutant Discharge Elimination System Act, or any previously issued discharge permit, the Executive Director shall issue an order requiring such person or entity to comply with such provision or requirement, commence appropriate administrative enforcement proceedings, or bring a



civil action. Provided, however, the issuance of a compliance order or suspension or revocation of a permit shall not be considered a condition precedent to the accrual or imposition of penalties or fines in any administrative, civil or criminal proceeding.

D. A copy of any order issued pursuant to this section shall be sent immediately to the violator. In any case in which an order or notice to a violator is issued to a corporation, a copy of such order shall be served on any appropriate corporate officers.

Any order issued pursuant to this section shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance not to exceed thirty (30) days in the case of a violation of an interim compliance schedule or operation and maintenance requirement and not to exceed a reasonable time in the case of a violation of a final deadline, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. Any order or notice issued by the Executive Director may be served in any manner allowed by Oklahoma Rules of Civil Procedures applicable to a civil summons.

E. Whenever on the basis of any information available the Executive Director finds that any person regulated by the Department has violated any of the provisions of the Oklahoma Pollutant Discharge Elimination System Act, or any permit, rule, order or condition or limitation implementing any of such sections, or previously issued discharge permit or related order, the Executive Director may, after providing notice and opportunity for an enforcement hearing to the alleged violator, assess an administrative fine of not more than Ten Thousand Dollars (\$10,000.00) per day of violation, for each day during which the violation continues. The total amount of such fine shall not exceed One Hundred Twenty-five Thousand Dollars (\$125,000.00) per violation. In determining the amount of any penalty assessed under this subsection, the Executive Director shall take into account the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit savings, if any, resulting from the violation, and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation. Enforcement hearings shall be conducted in accordance with the procedures set out in the Administrative Procedures Act.

F.

1. The Executive Director is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which he is authorized to issue a compliance order under subsection C of this section.

2. Any person who violates any provision of the Oklahoma Pollutant Discharge Elimination System Act, or any permit condition or limitation implementing any of such provisions in a permit issued under the Oklahoma Pollutant Discharge



Elimination System Act, or any requirement imposed in a pretreatment program approved under the Oklahoma Pollutant Discharge Elimination System Act, and any person who violates any order issued by the Executive Director under subsection C of this section, shall be subject to a civil penalty not to exceed Ten Thousand Dollars (\$10,000.00) per day for each violation. In determining the amount of the civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit, if any, resulting from the violation, any history of such violations, any good faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

3. Any action pursuant to this subsection may be brought in the district court for the district in which the property or defendant is located or defendant resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance.

4. The prior revocation of a permit shall not be a condition precedent to the filing of a civil action under the Oklahoma Pollutant Discharge Elimination System Act.

G.

1. Any person who:

a. negligently violates any provision of the Oklahoma Pollutant Discharge Elimination System Act, or any order issued by the Executive Director hereunder, or any permit condition or limitation in a permit issued or any requirement imposed in a pretreatment program authorized pursuant to the Oklahoma Pollutant Discharge Elimination System Act, or

b. negligently introduces into the waters of the state or a treatment works discharging into the waters of the state any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable federal, state or local requirements or permits, which causes such treatment work to violate any effluent limitation or condition in a permit issued to the treatment works pursuant to the Oklahoma Pollutant Discharge Elimination System Act, shall be punished by a fine of not less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more than Twenty-five Thousand Dollars (\$25,000.00) per day of violation, or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be a fine of not more than Fifty Thousand Dollars (\$50,000.00) per day of violation, or by



imprisonment in the State Penitentiary for not more than two (2) years, or by both.

2. Any person who:

a. knowingly violates any provision of the Oklahoma Pollutant Discharge Elimination System Act, or any order issued by the Executive Director hereunder, or any permit condition or limitation in a permit issued or any requirement imposed in a pretreatment program authorized pursuant to the Oklahoma Pollutant Discharge Elimination System Act, or

b. knowingly introduces into the waters of the state or a treatment works discharging into the waters of the state any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable federal, state or local requirements or permits, which causes such treatment work to violate any effluent limitation or condition in a permit issued to the treatment works under the Oklahoma Pollutant Discharge Elimination System Act, shall be punished by a fine of not less than Five Thousand Dollars (\$5,000.00) nor more than Fifty Thousand Dollars (\$50,000.00) per day of violation, or by imprisonment in the county jail for not more than one (1) year or in the State Penitentiary for not more than three (3) years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be a fine of not more than One Hundred Thousand Dollars (\$100,000.00) per day of violation, or by imprisonment in the State Penitentiary for not more than six (6) years, or by both.

3.

a. Any person who knowingly violates any provision of the Oklahoma Pollutant Discharge Elimination System Act, or any permit condition or limitation in a permit issued hereunder by the Executive Director, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall upon conviction be subject to a fine of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00) or imprisonment in the State Penitentiary for not more than fifteen (15) years, or both. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than One Million Dollars (\$1,000,000.00). If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

b. For the purpose of subparagraph a of this paragraph:



(1) in determining whether a defendant who is an individual knew that his conduct placed another person in imminent danger of death or serious bodily injury, a person shall be responsible only for actual awareness or actual belief that he possessed, and knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant; provided however that in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information,

(2) it is an affirmative defense to prosecution under this subsection that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of an occupation, business, profession or of a medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent, and such defense may be established under this subparagraph by a preponderance of the evidence.

4. Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Oklahoma Pollutant Discharge Elimination System Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under the Oklahoma Pollutant Discharge Elimination System Act, shall upon conviction be punished by a fine of not more than Ten Thousand Dollars (\$10,000.00), or by imprisonment for not more than two (2) years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than Twenty Thousand Dollars (\$20,000.00) per day of violation, or by imprisonment for not more than four (4) years, or by both.

5. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

H. Whenever, on the basis of information available to him, the Department finds that an owner or operator of any source is introducing a pollutant into a treatment works in violation of the Oklahoma Pollutant Discharge Elimination System Act or any requirement, rule, permit or order issued under the Oklahoma Pollutant Discharge Elimination System Act, the Department shall notify the owner or operator of such treatment works of such violation. If the owner or operator of the treatment works does not commence appropriate enforcement action within thirty (30) days of the date of such



notification, the Department may commence a civil action for appropriate relief, including but not limited to a permanent or temporary injunction, against the owner or operator of such treatment works. In any such civil action the Department shall join the owner or operator of such source as a party to the action. Such action shall be brought in the district court in the county in which the treatment works is located. Such court shall have jurisdiction to restrain such violation and to require the owner or operator of the treatment works and the owner or operator of the source to take such action as may be necessary to come into compliance with the Oklahoma Pollutant Discharge Elimination System Act. Nothing in this subsection shall be construed to limit or prohibit any other authority the Department may have under this section.

I. 1. Any person against whom an administrative compliance or penalty order is issued under this section may obtain review of such order by filing a petition for review in district court pursuant to the Administrative Procedures Act. Such court shall not set aside or remand such order unless there is not substantial evidence in the administrative record, taken as a whole, to support the finding of a violation or unless the assessment of the penalty constitutes an abuse of discretion and shall not impose additional civil penalties for the same violation unless the assessment of the penalty constitutes an abuse of discretion. No stay of an administrative penalty order shall be granted until the amount of penalty assessed has been deposited with the reviewing district court pending resolution of the petition for review.

2. If any person fails to pay an assessment of an administrative penalty:

a. after the order making the assessment has become final, or

b. after a court in an action brought under paragraph 1 of this subsection has entered a final judgment in favor of the Department, as the case may be, the Department may commence or may request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

3. Any person who fails to pay on a timely basis the amount of an assessment of an administrative or civil penalty shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceeding and quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

