

CIVIL PENALTY SCHEDULE

The California Health and Safety Code Section 42403 grants authority to local Air Quality Management Districts to impose civil penalties as set forth in Sections 42400 and 42402 of up to \$50,000 per day for violations of air pollution rules and regulations, and provides guidance for assuring that penalties are commensurate with the severity of the violation. Except under especially egregious cases, the District's policy is to offer the opportunity to settle such enforcement actions before commencing formal legal proceedings. Settlement offers are comprised of civil penalties which include two distinct penalty elements; 1) An **economic benefit penalty**, intended to remove any financial gains associated with the noncompliance, and 2). A **gravity based penalty**, related to the severity of the violation.

The **economic benefit penalty** is a penalty amount based upon the estimated reasonable costs that would have been incurred if the facility had remained in compliance. For example, such costs may include any fees that would have been assessed, and the cost to properly maintain equipment. The economic benefit penalty is intended to remove any economic advantage resulting from the violation.

The **gravity based penalty** is determined through a matrix of civil penalty amounts which are determined by three objective criteria: seriousness of the violation, the gross annual income of the violator, and the number of prior violations for the same offense. Use of this schedule is intended to assure uniformity of assessed civil penalties for all persons under similar circumstances, except that especially egregious cases, including cases involving toxic air contaminants which cause actual injury to a person or persons or property, are not included in this Schedule and will be handled individually. The penalty amounts shown are settlement amounts where no remedial action is taken. Where there is remedial action taken these penalties may be reduced for settlement as follows:

With approval from the Air Pollution Control Officer, the Enforcement Manager may enter into a settlement involving up to a 50 percent reduction of the penalty amount, indicated by the matrix where there is a prompt, good faith remedial action taken by the party charged. In special cases, a reduction beyond 50 percent may be approved where there is extraordinary remedial actions have been taken by party charged, or where the penalty assessed would pose a severe economic hardship.

There are five violation categories reflecting penalty amounts corresponding to the seriousness of the violation. Category I violations are those which are primarily procedural, having negligible air quality impact, and which are committed unintentionally through neglect or oversight. Category II, III, and IV violations include those which involve emission exceedances or actual injury and which are committed unintentionally through neglect or oversight. Category V violations include those involving emission exceedances or actual injury and which are committed with knowledge of the excessive emissions.

The factors of willfulness and impact are considered together in assigning a particular violation a violation category. A violation involving little air quality impact, for example, could be assigned to a Category II or III depending on the degree of willfulness of the violation. Similarly, an unintentional violation could be assigned to Category III or IV, depending on the degree of impact involved.

There are three sizes of business classes for penalty assessments which are determined by the gross annual income of the responsible party or property owner. These classes are set out under the penalty matrix below.

The third factor in the Schedule is the number of similar prior violations as the case in question, committed by the same responsible party over the past two years.

CIVIL PENALTY MATRIX

Gross Income	Violation Category				
	I	II	III	IV	V
Class A					
0 Priors	\$160	\$320	\$560	\$880	\$1,280
1 Prior	\$320	\$680	\$1,080	\$1,600	\$2,200
2 Priors	\$500	\$1,040	\$1,660	\$2,400	\$3,120
Class B					
0 Priors	\$320	\$560	\$960	\$1,520	\$2,240
1 Prior	\$600	\$1,080	\$1,760	\$2,600	\$3,600
2 Priors	\$880	\$1,660	\$2,600	\$3,740	\$5,040
Class C					
0 Priors	\$640	\$960	\$1,520	\$3,220	\$3,360
1 Prior	\$1,000	\$1,680	\$2,600	\$3,780	\$5,200
2 Priors	\$1,400	\$2,440	\$3,740	\$5,300	\$7,200

Annual Gross Income

Class A	less than \$665,000
Class B	\$665,000 to \$6,650,000
Class C	Over \$6,650,000