



MUTUAL SETTLEMENT PROGRAM

CIVIL PENALTY SCHEDULE – RESIDENTIAL OPEN BURNING

Violations of District Regulations are enforceable under the provisions of California Health and Safety Code (HSC) section 42402, et. Seq., which provides for civil penalties of up to \$25,000 per violation, depending on the severity. The District's mutual settlement policy is to offer the opportunity to settle such enforcement actions before commencing formal legal proceedings.

In the recovery of civil penalties, HSC section 42403 requires the District to take into consideration all relevant circumstances, including, but not limited to, the following:

- 1) The extent of harm caused by the violation;
- 2) The nature and persistence of the violation;
- 3) The length of time over which the violation occurs;
- 4) The frequency of past violations;
- 5) Any action taken by the defendant to mitigate the violation; and,
- 6) The financial burden to the defendant.

The *Civil Penalty Matrix – Residential Open Burning* is a matrix of civil penalty amounts which are determined by three main criteria: seriousness of the violation, the cost of compliance, and the number of prior violations for the same offense. This schedule is intended to assure the uniform assessment of civil penalties for all persons under similar circumstances. Egregious cases, including those cases involving toxic air contaminants which cause actual injury to a person or persons, are not subject to this matrix and will be handled individually. The penalty amounts shown are settlement amounts where no remedial action is taken.

Where there is remedial action taken, the proposed settlement penalties may be reduced. With approval from the Air Pollution Control Officer (APCO), 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 by the APCO where the party charged has taken extraordinary remedial actions or the penalty assessed would pose a substantial financial burden to the defendant.

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 and III violations include those which involve small quantities of prohibited materials and which were committed unintentionally through neglect or oversight. Category IV and V violations include those involving open burning of significant quantities of prohibited materials, open burning of materials which produce toxic air contaminants when burned, or which caused a public nuisance, and which are committed with knowledge that the materials burned were prohibited, or that the smoke was impacting a considerable number of persons.

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

CIVIL PENALTY MATRIX – RESIDENTIAL OPEN BURNING

Priors	<i>Violation Category</i>				
	I	II	III	IV	V
0	\$105	\$215	\$425	\$640	\$1,280
1	\$215	\$425	\$640	\$1,280	\$2,560
2 or more	\$425	\$640	\$1,280	\$2,560	\$5,120

Alternative Compliance Option:

A party subject to residential burning enforcement may be offered an open burning Alternative Compliance Course as a settlement alternative to a monetary penalty or to offset a portion of a monetary penalty. The offset portion shall not exceed \$500. This option would only be available to persons who have not previously participated in the Alternative Compliance Course in Butte County and are not subject to egregious violations that cause actual injury. This option is offered at the discretion of the APCO. The successful completion of the Alternative Compliance Course shall include passing a multiple-choice test.