

Current Enforcement Penalties for the Unified Program

For violations of Health & Safety Code Chapter 6.5, the violator shall be liable for penalties as provided in section 25189.2(a)-(d).

25189.2.(a) A person who makes a false statement or representation in an application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with this chapter, is liable for a civil penalty not to exceed seventy thousand dollars (\$70,000) for each separate violation or, for continuing violations, for each day that the violation continues.

(b) Except as provided in subdivision (c) or (d), a person who violates a provision of this chapter or a permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is liable for a civil penalty not to exceed seventy thousand dollars (\$70,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues.

(c) A person who disposes, or causes the disposal of, a hazardous or extremely hazardous waste at a point that is not authorized according to the provisions of this chapter is liable for a civil penalty of not more than seventy thousand dollars (\$70,000) for each violation and may be ordered to disclose the fact of this violation or these violations to those persons as the court or, in the case of an administrative action, a hearing officer, may direct. Each day on which the deposit remains is a separate additional violation, unless the person immediately files a report of the deposit with the department and is complying with an order concerning the deposit issued by the department, a hearing officer, or a court of competent jurisdiction for the cleanup.

(d) A person who treats or stores, or causes the treatment or storage of, a hazardous waste at a point that is not authorized according to this chapter, shall be liable for a civil penalty not to exceed seventy thousand dollars (\$70,000) for each separate violation or, for continuing violations, for each day that the violation continues.

(g) Liability under this section may be imposed in a civil action or liability may be imposed **administratively** pursuant to Section 25187.

For violations of Health & Safety Code Chapter 6.67, the violator shall be liable for a penalty as provided in section 25270.12(a).

25270.12.(a) Any owner or operator of a tank facility who fails to prepare a spill prevention control and countermeasure plan in compliance with subdivision (a) of Section 25270.4.5, to file a tank facility statement pursuant to subdivision (a) of Section 25270.6, to submit the fee required by subdivision (b) of Section 25270.6, or to report spills as required by Section 25270.8, or who otherwise fails to comply with the requirements of this chapter, is subject to a civil penalty of not more than five thousand

dollars (\$5,000) for each day on which the violation continues. If the owner or operator commits a second or subsequent violation, a civil penalty of not more than ten thousand dollars (\$10,000) for each day on which the violation continues may be imposed.

For violation of Health & Safety Code Chapter 6.7, the violator shall be liable for a penalty as provided in section 25299(a)-(c)

25299(a) An operator of an underground tank system is liable for a civil penalty of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000) for each underground storage tank, for each day of violation, for any of the following violations:

- (1) Operating an underground tank system that has not been issued a permit, in violation of this chapter.
- (2) Violation of an applicable requirement of the permit issued for the operation of the underground tank system.
- (3) Failure to maintain records, as required by this chapter.
- (4) Failure to report an unauthorized release, as required by Sections 25294 and 25295.
- (5) Failure to properly close an underground tank system, as required by Section 25298.
- (6) Violation of an applicable requirement of this chapter or a regulation adopted by the board pursuant to Section 25299.3.
- (7) Failure to permit inspection or to perform a monitoring, testing, or reporting required pursuant to Section 25288 or 25289.
- (8) Making a false statement, representation, or certification in an application, record, report, or other document submitted or required to be maintained pursuant to this chapter.
- (9) Tampering with or otherwise disabling automatic leak detection devices or alarms.

(b) An owner of an underground tank system is liable for a civil penalty of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000) per day for each underground storage tank, for each day of violation, for any of the following violations:

- (1) Failure to obtain a permit as specified by this chapter.
- (2) Failure to repair or upgrade an underground tank system in accordance with this chapter.
- (3) Abandonment or improper closure of an underground tank system subject to this chapter.
- (4) Violation of an applicable requirement of the permit issued for operation of the underground tank system.
- (5) Violation of an applicable requirement of this chapter or a regulation adopted by the board pursuant to Section 25299.3.
- (6) Failure to permit inspection or to perform a monitoring, testing, or reporting required pursuant to Section 25288 or 25289.

(7) Making a false statement, representation, or certification in an application, record, report, or other document submitted or required to be maintained pursuant to this chapter.

(c) A person who intentionally fails to notify the board, the regional board, or the local agency when required to do so by this chapter or who submits false information in a permit application, amendment, or renewal, pursuant to Section 25286, is liable for a civil penalty of not more than five thousand dollars (\$5,000) for each underground storage tank for which notification is not given or false information is submitted.

For violations of Health & Safety Code Chapter 6.95, Article 1, the violator shall be liable for a penalty as provided in section 25515(a)-(b).

25515.(a) A business that violates Sections 25504 to 25508.2, inclusive, or Section 25511, shall be civilly liable to the unified program agency in an amount of not more than two thousand dollars (\$2,000) for each day in which the violation occurs. If the violation results in, or significantly contributes to, an emergency, including a fire, the business shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of the hazardous materials.

(b) A business that knowingly violates Sections 25504 to 25508.2, inclusive, or Section 25510.1, after reasonable notice of the violation shall be civilly liable to the unified program agency in an amount not to exceed five thousand dollars (\$5,000) for each day in which the violation occurs.

For violations of Health & Safety Code Chapter 6.95, Article 2, the violator shall be liable for a penalty as provided in section 25540(a)-(b) or 25540.5

25540.(a) A person or stationary source that violates this article shall be civilly or administratively liable to the unified program agency in one of the following amounts, as applicable:

(1) For a violation that occurs on or before December 31, 2018, not more than two thousand dollars (\$2,000) for each day in which the violation occurs, unless paragraph

(3) applies.

(2) For a violation that occurs on or after January 1, 2019, not more than five thousand dollars (\$5,000) for each day in which the violation occurs, unless paragraph (4) applies.

(3) For a violation committed knowingly after reasonable notice on or before December 31, 2018, not more than twenty-five thousand dollars (\$25,000) for each day in which the violation occurs.

(4) For a violation committed knowingly on or after January 1, 2019, not more than twenty-five thousand dollars (\$25,000) for each day in which the violation occurs.

(b) If a violation of this article results in, or significantly contributes to, an emergency, including a fire, the person or stationary source shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of any hazardous materials, in addition to the applicable amount require pursuant to subdivision (a).

25540.5. Any person or stationary source who violates any rule or regulation, emission limitation, permit condition, order, fee requirement, filing requirement, duty to allow or carry out inspection or monitoring activities, or duty to allow entry, established pursuant to this article and for which delegation or approval of implementation and enforcement authority has been obtained pursuant to subsections (l) and (r) of Section 112 of the Clean Air Act (42 U.S.C. Sections 7412(l) and 7412(r)) or the regulations adopted pursuant thereto, is strictly liable for a civil penalty not to exceed ten thousand dollars (\$10,000) for each day in which the violation occurs.

CUPAs Authority to impose AEO Fines

25404.1.1.(a) If the unified program agency determines that a person has committed, or is committing, a violation of any law, regulation, permit, information request, order, variance, or other requirement that the UPA is authorized to enforce or implement pursuant to this chapter, the UPA may issue an administrative enforcement order requiring that the violation be corrected and imposing an administrative penalty, in accordance with the following:

- (1) Except as provided in paragraph (5), if the order is for a violation of Chapter 6.5 (commencing with Section 25100), the violator shall be subject to the applicable administrative penalties provided by that chapter.
- (2) If the order is for a violation of Chapter 6.7 (commencing with Section 25280), the violator shall be subject to the applicable civil penalties provided in subdivisions (a), (b), (c), and (e) of Section 25299.
- (3) If the order is for a violation of Article 1 (commencing with Section 25500) of Chapter 6.95, the violator shall be subject to a penalty that is consistent with the administrative penalties imposed pursuant to Section 25514.5.
- (4) If the order is for a violation of Article 2 (commencing with Section 25531) of Chapter 6.95, the violator shall be subject to a penalty that is consistent with the administrative penalties imposed pursuant to Section 25540 or 25540.5.
- (5) If the order is for a violation of Section 25270.4.5, the violator shall be liable for a penalty of not more than five thousand dollars (\$5,000) for each day on which the violation continues. If the violator commits a second or subsequent violation, a penalty of not more than ten thousand dollars (\$10,000) for each day on which the violation continues may be imposed.

(b) In establishing a penalty amount and ordering that the violation be corrected pursuant to this section, the UPA shall take into consideration the nature,

circumstances, extent, and gravity of the violation, the violator's past and present efforts to prevent, abate, or clean up conditions posing a threat to the public health or safety or the environment, the violator's ability to pay the penalty, and the deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.