

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-c).

25189.2. (a) Any person who makes any false statement or representation in any 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 twenty-five thousand dollars (\$25,000) for each separate violation or, for continuing violations, for each day that the violation continues.

(b) Except as provided in subdivision (c), any person who violates any provision of this chapter or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues.

(c) Any person who disposes, or causes the disposal of, any hazardous or extremely hazardous waste at a point which is not authorized according to the provisions of this chapter is liable for a civil penalty of not more than twenty-five thousand dollars (\$25,000) 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 any order concerning the deposit issued by the department, a hearing officer, or a court of competent jurisdiction for the cleanup.

(e) 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 6.7, the violator shall be liable for a penalty as provided in section 25299(a-c).

25299. (a) Any operator of an underground tank system shall be 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: (1-9)

(b) Any owner of an underground tank system shall be 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: (1-8)

(c) Any person who intentionally fails to notify the 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 consistent with the administrative as described in section 25514.5.

- 25514.5. (a) Notwithstanding Section 25514, any business which violates this article is civilly liable to an administering agency for an administrative civil penalty, in an amount which shall be set by the governing body of the administering agency, but not greater 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 or health or medical problem requiring toxicological, health, or medical consultation, the business shall also be assessed the full cost of the county, city, fire district, local EMS agency designated pursuant to Section 1797.200, or poison control center as defined by Section 1797.97, emergency response, as well as the cost of cleaning up and disposing of the hazardous materials, or acutely hazardous materials.
- (b) Notwithstanding Section 25514, any business that knowingly violates this article after reasonable notice of the violation is civilly liable for an administrative penalty, in an amount which shall be set by the governing body of the administering agency, but not greater than 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 consistent with the administrative as described in section 25540. or 25540.5.

25540. (a) Any stationary source that violates this article shall be civilly liable to the administering 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 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 the hazardous materials.
- (b) Any stationary source that knowingly violates this article after reasonable notice of the violation shall be civilly liable to the administering agency in an amount not to exceed twenty-five thousand dollars (\$25,000) for each day in which the violation occurs and upon conviction, may be punished by imprisonment in the county jail for not more than one year.

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.

For violations of Health & Safety Code Section 25270.5, 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.

25270.12.(a) Any owner or operator of a tank facility who fails to file a storage report pursuant to subdivision (a) of Section 25270.6, to submit the fee required by subdivision (b) of Section 25270.6, to establish the monitoring system required by Section 25270.7, to report spills as required by subdivision (e) of Section 25270.7 or by Section 25270.8, or otherwise 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.

CUPAs authority to impose AEO fines

H&SC 25404.1.1(a) (4). Gives the CUPA authority to impose AEO fines for ABGT violations in accordance with HS&C 25270.12 (a) which are up to \$5,000 per day per violation and up to \$10,000 for repeat violations.

Statutory factors to consider in imposing an AEO:

- 1) The nature, circumstances, extent, and gravity of the violation,
- 2) 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,
- 3) The violator's ability to pay the penalty, and
- 4) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community. H&SC 25404.1.1 (b)