

Placer County Air Pollution Control District

List of Potential Violations Subject to Civil Penalties (Per California Health and Safety Code 42409)

In accordance with District Rule 803, Penalties, violation of any order, permit, rule, regulation, requirement, condition, or obligation imposed by the Placer County Air Pollution Control District, and any order, permit, rule, regulation, requirement, condition, or obligation imposed by the State Board or the US EPA which the District is empowered to enforce, may be subject to administrative civil penalties or civil penalties that are sought by the District through a mutual settlement process. California Health and Safety Code (HSC) Section 42409 also states that: “Every district shall publish in writing and make available to any interested party a list which describes potential violations subject to penalties under this article. The list shall also include the minimum and maximum penalties for each violation which may be assessed by a district pursuant to this article.”

In lieu of mutual settlement penalties that may be sought by the District, a civil or criminal complaint action may be brought pursuant to HSC, Division 26, Part 4, Chapter 4, Article 3, Penalties (Section 42400 et. seq.) by a District Attorney or by an attorney for the District, or by Placer County District Attorney, or the State Attorney General on behalf of a District or on behalf of the State Board. Actions may also be brought by the U.S. Attorney for violations of federal air pollution control law.

In addition to any civil or criminal penalty allowed by law, or in lieu of mutual settlement negotiations, the District may impose an administrative civil penalty for violations in accordance with HSC Section 42402.5 and District Rule 806, Administrative Civil Penalties, of up to \$500 for each violation.

Maximum liabilities for various categories of violations that the District may settle through a negotiated, mutual settlement, process are set by HSC Section 42402 et seq. (the minimum penalty that may be assessed is zero dollars), and include¹:

- \$5,000 per day for air quality violations with “strict liability.” This includes violation of any provision of the HSC, any District rule, order, or permit. It does not matter if there were emissions or any intent to violate the law. (HSC Section 42402(a)).
- \$10,000 per day for any strict liability violation, unless the violator can establish that the violation was not the result of intentional or negligent conduct. (HSC Section 42402(b)(1)).
- \$10,000 per day for any strict liability violation at a Title V source. (HSC Section 42402(b)(2)(B)).

¹ Maximum penalties will increase from those shown annually starting January 1, 2018, based on the California Consumer Price Index, per HSC Section 42411.

- \$15,000 per day for an emission violation that causes actual injury to the health and safety of a considerable number of persons or the public. (HSC Section 42402(c)).
- \$25,000 per day for a negligent emission violation. This covers any violation due to careless, inattentive, or inadvertent release of air pollutants. (HSC Section 42402.1(a)).
- \$25,000 per day for the intentional violation of any order of abatement issued by the District Hearing Board or the State Board. (HSC Section 42401).
- \$35,000 per day for the falsification of any document required to be kept pursuant to any rule, regulatory permit, or order of the State or District boards. (HSC Section 42402.4).
- \$40,000 per day for a negligent emission violation when the violator knew of the emission, but failed to take corrective action in a reasonable period of time. (HSC Section 42402.2(a)).
- \$75,000 per day for a willful and intentional emission violation. (HSC Section 42402.3(a)).
- \$100,000 per day for a negligent emission violation that causes great bodily injury. (HSC Section 42402.1(b)).
- \$125,000 per day for an emission violation that is willful and intentional, or with reckless disregard for the risk of great bodily injury, or death of, any person, and that results in an unreasonably risk of great bodily injury or death. If the violator is a corporation the maximum daily penalty is \$500,000. (HSC Section 42402.3(b)).
- \$250,000 per day for an emission violation when the violator knew of the emission, failed to take corrective action in a reasonable period of time, and the emission resulted in great bodily injury. (HSC Section 42402.2(b)).
- \$250,000 per day for an emission violation that is willful and intentional, or with reckless disregard for the risk of great bodily injury, or death of, any person, and that causes great bodily injury or death. If the violator is a corporation the maximum daily penalty is \$1,000,000. (HSC Section 42402.3(c)).