

R307-130-1. Scope.

This policy provides guidance to the executive secretary of the Air Quality Board in negotiating with air pollution sources penalties for consent agreements to resolve non-compliance situations. It is designed to be used to determine a reasonable and appropriate penalty for the violations based on the nature and extent of the violations, consideration of the economic benefit to the sources of non-compliance, and adjustments for specific circumstances.

R307-130-2. Categories. Violations are grouped in four general categories based on the potential for harm and the nature and extent of the violations. Penalty ranges for each category are listed.

(1) Category A. \$7,000-10,000 per day: Violations with high potential for impact on public health and the environment including:

- (a) Violation of emission standards and limitations of NESHAP.
- (b) Emissions contributing to nonattainment area or PSD increment exceedences.
- (c) Emissions resulting in documented public health effects and/or environmental damage.

(2) Category B. \$2,000-7,000 per day. Violations of the Utah Air Conservation Act, applicable State and Federal Regulations, and orders to include:

- (a) Significant levels of emissions resulting from violations of emission limitations or other regulations which are not within Category A.
- (b) Substantial non-compliance with monitoring requirements.
- (c) Significant violations of approval orders, compliance orders, and consent agreements not within Category A.
- (d) Significant and/or knowing violations of "notice of intent" and other notification requirements, including those of NESHAP.
- (e) Violations of reporting requirements of NESHAP.

(3) Category C. Up to \$2,000 per day. Minor violations of the Utah Air Conservation Act, applicable State and Federal Regulations and orders having no significant public health or environmental impact to include:

- (a) Reporting violations.
- (b) Minor violations of monitoring requirements, orders and agreements.
- (c) Minor violations of emission limitations or other regulatory requirements.

(4) Category D. Up to \$299.00. Violations of specific provisions of R307 which are considered minor to include:

- (a) Violation of automobile emission standards and requirements.
- (b) Violation of wood-burning regulations by private individuals.
- (c) Open burning violations by private individuals.

R307-130-3. Adjustments.

The amount of the penalty within each category may be adjusted and/or suspended in part based upon the following factors:

(1) Good faith efforts to comply or lack of good faith. Good faith takes into account the openness in dealing with the violations, promptness in correction of problems, and the degree of cooperation with the State to include accessibility to information and the amount of State effort necessary to bring the source into compliance.

(2) Degree of wilfulness and/or negligence. In assessing wilfulness and/or negligence, factors to be considered include how much control the violator had over and the foreseeability of the events constituting the violation, whether the violator made or could have made reasonable efforts to prevent the violation, and whether the violator knew of the legal requirements which were violated.

(3) History of compliance or non-compliance. History of non-compliance includes consideration of previous violations and the resource costs to the State of past and current enforcement actions.

(4) Economic benefit of non-compliance. The amount of economic benefit to the source of non-compliance would be added to any penalty amount determined under this policy.

(5) Inability to pay. An adjustment downward may be made or a delayed payment schedule may be used based on a documented inability of the source to pay.

R307-130-4. Options.

Consideration may be given to suspension of monetary penalties in trade-off for expenditures resulting in additional controls and/or emissions reductions beyond those required to meet existing requirements. Consideration may be given to an increased amount of suspended penalty as a deterrent to future violations where appropriate.