

**SENATE BILL 1402 REPORT TO THE LEGISLATURE ON
SUMMARY OF ADMINISTRATIVE PENALTIES IMPOSED BY
THE CALIFORNIA AIR RESOURCES BOARD IN 2021**



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Executive Summary

Senate Bill 1402 (Dutton, Chapter 413, Statutes of 2010) amended Health and Safety Code (HSC) Section 43023, directing the California Air Resources Board to prepare and submit to the Legislature and the Governor an annual report summarizing the administrative penalties imposed by the state board each year beginning in 2011. The California Air Resources Board (CARB) has the authority to seek administrative penalties for certain violations. In this process, administrative hearings are conducted by administrative law judges using CARB's administrative hearing procedures.

An administrative hearing offers a means by which to contest a citation or notice of violation (NOV) for a party who has been issued either a citation or NOV. Hearings are conducted by an administrative law judge and must be conducted in accordance with CARB's administrative hearing procedures that are established by the administrative hearing regulations as codified in California Code of Regulations, Title 17, Sections 60075.1 et seq. Under the administrative hearing procedures, CARB may seek administrative penalties instead of civil penalties for violations of CARB regulations. The administrative hearing procedure also allows CARB to negotiate mutual settlements in an administrative process without proceeding to a hearing.

CARB imposed administrative penalties with a total sum of \$10,000 for one entity to settle five violations in 2021.

Background

The Legislature enacted Senate Bill 527 (Sher, Chapter 769, Statutes of 2001) establishing Health and Safety Code (HSC) Sections 42410 and 43023, which broadly authorize CARB to impose administrative penalties as an alternative to civil penalties for most violations subject to CARB's rules and regulations. In 2010, the Legislature enacted Senate Bill 1402 (Dutton, Chapter 413, Statutes of 2010) to amend HSC Section 43023 to require CARB to prepare and submit to the Legislature and the Governor an annual report summarizing the administrative penalties imposed by the state board each year. The authority applies to administrative penalty assessments that do not exceed \$10,000 per day and do not cumulatively exceed \$100,000. The administrative hearings are conducted by Administrative Law Judges (ALJ) employed by the Office of Administrative Hearings (OAH), using CARB's administrative hearing procedures available at: <https://www.arb.ca.gov/enforcement-administrative-hearing-procedures>. Additionally, HSC 42410(b) does not restrict CARB's authority to negotiate mutual settlements under any other penalty provision.

Administrative penalties imposed through the administrative hearing process are used to deter noncompliance and to ensure regulated industries that have not met CARB's regulatory requirements are brought into compliance. Administrative penalties imposed by CARB are to be paid to the Treasurer for deposit in the General Fund. HSC 43023 directs CARB to prepare and submit to the Legislature and Governor a report summarizing administrative penalties imposed by CARB on an annual basis

starting in 2011. The year 2021 is the first year in which CARB has imposed administrative penalties through the administrative hearing process.

Summary of Administrative Penalties Imposed by CARB in 2021

James Truck Repair entered into a Settlement Agreement with CARB in 2021 and agreed to pay an administrative penalty with a total amount of \$10,000. Administrative penalties were imposed for five violations of the Verification Procedure, Warranty, and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines (California Code Regs., Title 13, Section 2711) at \$2,000 per violation.

Conclusion

CARB has the authority to seek administrative penalties for certain violations. In 2021, CARB imposed administrative penalties of \$10,000 for five violations by one entity.