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Title 22@ Social Security

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Division 4.5@ Environmental Health Standards for the Management of Hazardous Waste

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Chapter 22@ Enforcement, Inspections, and Informant Rewards

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Article 3@ Assessment of Administrative Penalties

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Section 66272.63@ Initial Penalty Adjustment Factors

66272.63 Initial Penalty Adjustment Factors

(a)

After determining the initial penalty, the Enforcement Agency shall adjust the initial penalty based on the violator's intent in committing the violation using the following guidelines:

Adjustment Factors for Violator's Intent	Adjustment Factor
Circumstance	Downward Adjustment of 100 percent
Violation was completely beyond the control of the violator.	Downward Adjustment of 0 to 50 percent
Violation occurred despite good faith efforts to comply with regulation(s).	No Adjustment
Violation indicated neither good faith efforts nor intentional failure to comply.	Upward Adjustment of 50 percent to 100 percent
Violation was a result of intentional failure to comply.	

(b)

Adjustment of the initial penalty in accordance with subsection (a) may result in an adjusted initial penalty that is higher or lower than the range presented in the originally selected matrix cell.

(c)

The initial penalty shall be increased by the amount of any economic benefit gained or cost of compliance avoided by the violator as a result of noncompliance up to the statutory maximum for each violation. Economic benefit includes, but is not limited to, avoided costs, increased profits, having the use of capital from delayed or avoided costs, and avoided interest.

(d)

The adjusted initial penalty for a violation shall not exceed the statutory maximum.