

# Hazardous Waste Permit Decision Criteria SB 673 Rulemaking

Hazardous Waste Management  
Program  
December 2018

# Presentation Overview

- Background and overview of SB 673
- Overview of regulations
  - Violation Scoring Procedure - **new**
  - Financial Assurance - **amended**
  - Training – **amended**
  - Community Involvement Profile - **new**
  - Health Risk Assessment – **now mandatory**



# Permit Decision Criteria – SB 673

DTSC needs to create or update objective criteria for making permit decisions which may result in the denial or suspension of a permit. DTSC shall consider all of the following criteria:

- (a) Number & types of violations
- (b) Vulnerability of, and existing health risks to nearby populations
- (c) Minimum setback distances from sensitive receptors
- (d) Evidence of financial assurances
- (e) Provision of liability requirements
- (f) Training of personnel in the safety culture, and maintenance of operations
- (g) Completion of a health risk assessment



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# Overview of Regulations

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# Violation Scoring Procedure (VSP)

## (Chapter 21, Article 3)

- § 66271.50 Definitions and Applicability
- § 66271.51 Determining the Initial Score - Class I Violation
- § 66271.51 Adjustment for Repeat Class I Violations
- § 66271.53 Provisional and Final Inspection Violation Scores
- § 66271.54 VSP Score and Compliance Tiers
- § 66271.55 Hazardous Waste Facility Permit Decisions
- § 66271.56 Requirements for “Conditionally Acceptable”
- § 66271.57 Requirements for “Unacceptable”



# Violation Scoring Procedure

- Based on existing methods and processes for addressing penalty calculations for violations
- Clarifies how a facility's compliance history will be used as a basis for permit decisions.
- Supports the permitting process in a consistent and transparent way.
- Applies to all facilities except post-closure facilities.



# VSP - Terminology

- Class I violations
  - Does not include Class II or minor
- Inspection Violation Scores
  - Each inspection will be scored
- Facility VSP Scores
  - Average for all inspections during 10 years
- Assigned Compliance Tier
  - Acceptable,
  - Conditionally Acceptable, or
  - Unacceptable



# Violation Scoring Procedure

## First Criteria: Potential Harm

- Type of wastes (characteristics)
- Amount or quantity of the wastes
- The location of the facility
- Threat to human health or safety, environment, or potable water
- Categories: Major, Moderate, or Minimal





# Violation Scoring Procedure

## Second criteria: Extent of Deviation

- The degree to which a facility does not comply with the requirement
- Categories: Major, Moderate, or Minimal



# VSP for Each Class I Violation

## - Violation Scoring Matrix

### POTENTIAL FOR HARM

### EXTENT OF DEVIATION

	Major	Moderate	Minimal
Major	25	15	10
Moderate	20	12	6
Minimal	15	10	2



# VSP for Each Inspection

## - Inspection Violations Scoring Example

Inspection at a permitted facility found 3 Class I violations

Class I Violation	Potential Harm	Deviation	Initial Score	Repeat Multiplier	Final Score
1	Minimal	Moderate	6	N/A	6
2	Moderate	Moderate	12	25%	15
3	Major	Moderate	20	N/A	20
Inspection Score					41



# VSP for Each Facility

## - Facility VSP Score Example

Inspection Date	Inspection Violations Score	2019 Facility VSP Score	Assigned Compliance Tier
xx/xx/2010	41	15	Acceptable
xx/xx/2012	0		
xx/xx/2014	25		
xx/xx/2015	10		
xx/xx/2017	0		
xx/xx/2018	15		
<b>TOTAL</b>	<b>91</b>	91 ÷ 6	



# VSP Compliance Tiers

- **Acceptable**
  - No additional requirements
- **Conditionally Acceptable**
  - Audits & improvements
- **Unacceptable**
  - DTSC initiates denial, revocation, or suspension.
  - Comprehensive review of compliance
  - Additional permit conditions



# Violation Scoring Procedure

- Facilities will be allowed to
  - dispute each Inspection Violation Score, or
  - challenge the “unacceptable” compliance tier.
- Facility VSP Scores & assigned compliance tiers will be updated and posted annually.



# Financial Responsibility

(Chapters 10, 14, 15, & 20)

§ 66260.10 Definitions

§ 66264.101 Corrective Action for Waste Management Units

§ 66264.143\* Financial Assurance for Closure.

§ 66264.144\* Cost Estimate for Postclosure Care.

§ 66264.145\* Financial Assurance for Postclosure Care.

§ 66264.146\* Use of a Mechanism for Financial Assurance

§ 66264.147\* Liability Requirements.

§ 66264.151 Wording of the Instruments.

§ 66270.14(b)(22) Corrective action cost estimate **\*NEW\***

\* Corresponding changes made in chapter 15



# Financial Responsibility

- Amendments include
  - Timing of corrective action funding
  - Strengthening the financial test and corporate guarantee requirements
  - Insurance for closure, post-closure, corrective action, and liability
  - At permit issuance, resetting post-closure period





# Financial Responsibility

## – Corrective Action

- Required within 90 days of approval of a corrective measures implementation workplan.
- Must include a process that allows DTSC access to the funds when a financial test or corporate guarantee is used



# Financial Responsibility

– Financial Test/Corporate Guarantee



Net worth  
\$20 million



**STANDARD  
& POOR'S  
RATINGS**

No  
Double  
Dipping



# Financial Responsibility

- Closure, Post-closure & Liability Insurance
- Only a company licensed to transact the business of insurance in California satisfies new financial assurance requirements.
- The insurer must be
  - an admitted carrier, or
  - a nonadmitted carrier on the California Department of Insurance's List of Approved Surplus Line Insurers (LASLI)



# Training Requirements (§§ 66264.16 & 66265.16)

- Requires a facility to submit an annual certification
- Adds elements to emergency response training
- General awareness training for all personnel
- Function specific training for all personnel involved with hazardous waste activities



# Community Involvement Profile

(§ 66270.14(b)(23))

- Require that a community involvement profile when the application is due.
  - Community demographics
  - Community interest
  - Location of tribal lands
  - Offsite sources – HW generators, cleanup sites & transportation corridors



# Health Risk Assessment (HRA)

(§§ 66270.14(e)(1) – (e)(22))

- (1) HRA must identify and describe ...
- (2) HRA process may include up to three steps
- (3) – (7) HRA Questionnaire submittal
- (8) – (9) HRA Questionnaire review and decision
- (10) – (12) Screening Level HRA Work Plan
- (13) – (15) Screening Level HRA submittal.
- (16) – (18) Baseline HRA Work Plan
- (19) – (21) Baseline HRA submittal.
- (22) Exemption for Class 1 or Class 2 permit modifications. Class 3 are discretionary if the DTSC deems it unnecessary.



# Permit Health Risk Assessment

(§§ 66260.10 & 66270.14(e))

- An HRA is used to analyze the potential for harm due to toxic chemicals in air, water, or soil.



# Health Risk Assessment (HRA) Elements

- HRA Questionnaire
  - Inventory – facility operations & releases
  - Assumptions Checklist – chemicals, toxicity & exposure
  - Conceptual Site Model – representation of how chemicals may reach people
- Screening Level Health Risk Assessment
- Baseline Health Risk Assessment





- A Conceptual Site Model can be a narrative, a diagram or a picture representation.

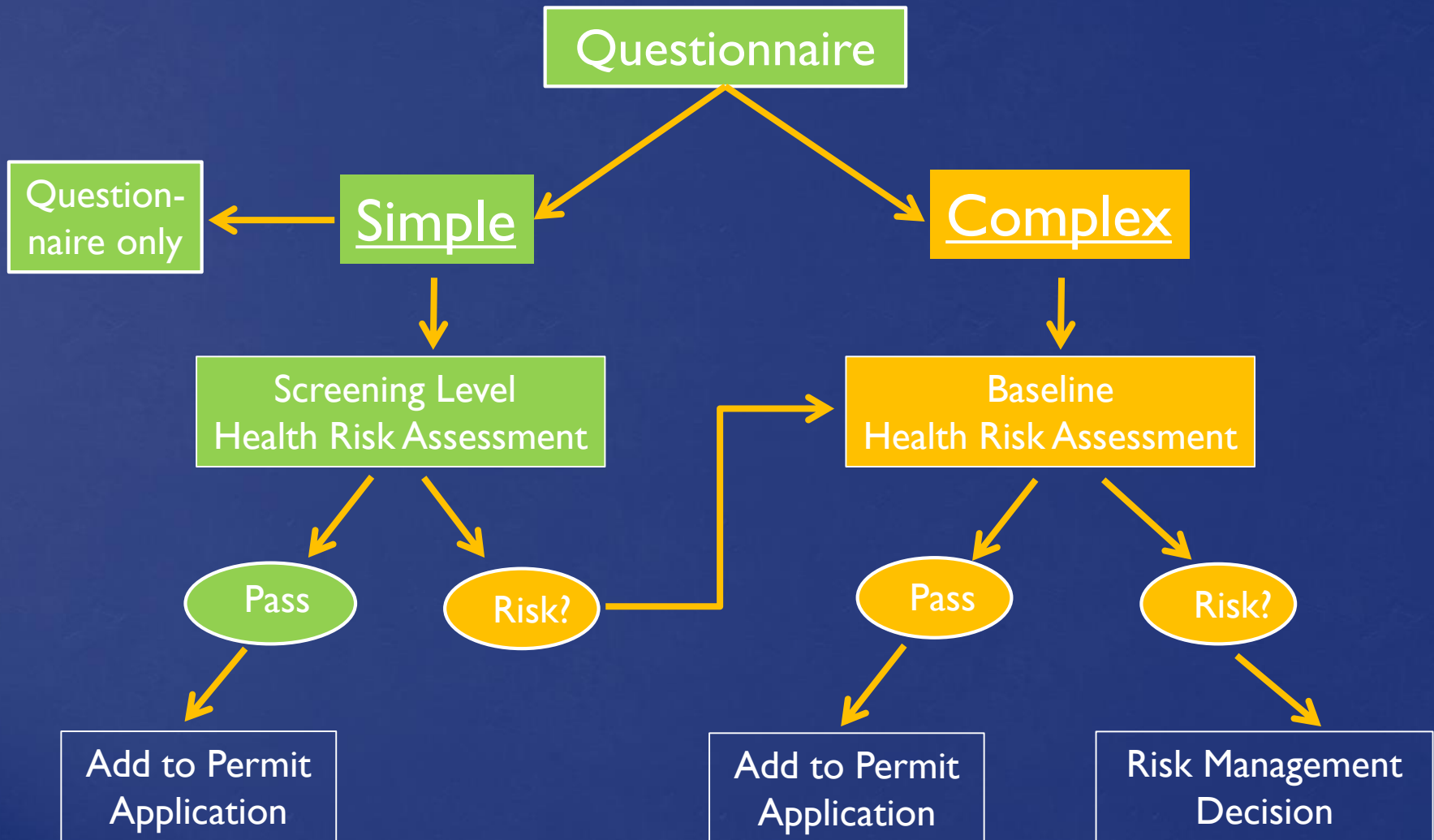


# Permit Health Risk Assessment

- **Screening Level Health Risk Assessment**
  - The Screening Level HRA is based on the concentration of a chemical of potential concern to media-specific screening levels for relevant receptors.
- **Baseline Health Risk Assessment**
  - The Baseline HRA is based on an approach to estimate potential human health risks posed by conditions and operations at the facility.



# Permit Health Risk Assessment Process



# For More Information

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- Webpage for additional informations

[http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/  
Permit\\_Dec\\_Criteria.cfm](http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/Permit_Dec_Criteria.cfm)

