

Handout #4: Key Terms and Relevant Citations

Key Terms Relevant to the Penalty Determination Process

Potential for harm: potential harm of the violation to public health and safety and the environment; considered when using the penalty matrix.

Extent of deviation: extent of deviation of the violation from hazardous waste management requirements; considered when using the penalty matrix.

Intent factor: adjustment factor applied to the initial penalty based on the violator's intent in committing the violation; ranges from a downward adjustment of 100% to an upward adjustment of 100% ($0 \leq \text{intent factor, IF} \leq 2$).

Economic benefit: economic benefit gained or cost of compliance avoided by the violator as a result of noncompliance up to the statutory maximum for each violation.

Total base penalty: sum of the base penalties for all violations.

Cooperation: violator's cooperation and efforts to return to compliance.

Prophylactic effect: one of the adjustment factors to the total base penalty. The total base penalty may be adjusted upward or downward to ensure that the penalty is sufficient to provide a prophylactic effect on both the violator and the regulated community as a whole.

Compliance history: one of the adjustment factors to the total base penalty; based on the violator's previous violations, or lack thereof.

Minor violation: a deviation from the requirements of Chapter 6.5 of Division 20 of the Health and Safety Code, or any regulation, standard, requirement, or permit or interim status document condition adopted pursuant to this chapter, that is not a class I violation. [HSC, section 25117.6(a)]

Class I violation: (a) a deviation from the requirements specified in Chapter 6.5 of Division 20 of the Health and Safety Code, or regulations, permit or interim status document conditions, standards, or requirements adopted pursuant to that chapter, that represents a significant threat to human health or safety or the environment, because of (1) the volume of the waste; (2) the relative hazard of the waste; or (3) the proximity of the population at risk, or that is significant enough that it could result in a failure to accomplish the following: (A) Assure that hazardous wastes are destined for and delivered to an authorized hazardous waste facility; (B) Prevent releases of hazardous waste or constituents to the environment during the active or post closure period of facility operation; (C) Assure early detection of such releases; (D) Assure adequate financial resources in the case of releases; or (E) Assure adequate financial resources to pay for facility closure; (F) Perform emergency clean-up operation or other corrective action for releases; or (b) The deviation is a Class II violation which is a chronic violation or committed by a recalcitrant violator. [22CCR, section 66260.10]

Class II violation: a deviation from the requirements specified in Chapter 6.5 of Division 20 of the Health and Safety Code, or regulations, permit or interim status document conditions standards, or requirements adopted pursuant to that chapter, that is not a Class I violation. [22CCR, section 66260.10]

Relevant Citations

Assessment of Administrative Penalties Regulations: 22CCR, sections 66272.60 to 66272.69 (Handout #1)

Authority Cited: Health and Safety Code, sections 25150 and 58012.

Reference: Health and Safety Code, sections 25117.6, 25180(d), 25187, 25187.8(g), 25189.2, 25244.18(d)(2), 25244.21(a) and 25244.21(b); and Government Code, section 11425.50.