



**Jared Blumenfeld**  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

Meredith Williams, Ph.D.  
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1001 "I" Street  
P.O. Box 806  
Sacramento, California 95812-0806



**Gavin Newsom**  
Governor

September 27, 2019

Certified Mail No.: 7018-0680-0000-9827-9263

Mr. Jim Hague  
J & B Refining DBA J & B Enterprise  
1650 Russell Ave.  
Santa Clara, California 95054

### NOTICE OF PROVISIONAL INSPECTION VIOLATION SCORES, 2019 FACILITY VIOLATION SCORING PROCEDURE SCORE, AND 2019 COMPLIANCE TIER ASSIGNMENT

Dear Mr. Jim Hague:

**2019 Facility Violations Scoring Procedure (VSP) Score: 14.20**  
**2019 Compliance Tier Assignment: Acceptable**

The purpose of this letter is to provide J & B Refining DBA J & B Enterprise, CAD982052797, located at 1650 Russell Ave., Santa Clara, CA 95054 (hereinafter, the "Facility") with a provisional inspection violation score for each compliance inspection that was conducted during the preceding ten (10) year period beginning January 1, 2009, through December 31, 2018, the Facility's 2019 VSP Score, and compliance tier assignment pursuant to California Code of Regulations (CCR), title 22, section 66271.53, subdivision (b)(2) and section 66271.54, subdivisions (c).<sup>1</sup>

The provisional inspection violation scores for the Facility are provided in the enclosed Inspection Violation Scoring Matrix. A provisional inspection violation score is the sum of the initial score for each Class I violation that occurred during a compliance inspection, and any adjustment to the initial Class I violation score based on repeat violations.<sup>2</sup> (See 22 CCR § 66271.53, subd. (a).) The basis for the score for each Class I violation is also provided in the enclosed Inspection Violation Scoring Matrix.

<sup>1</sup> Pursuant to Senate Bill (SB) 673 (Stats. 2015, chapter 611), the Department of Toxic Substances Control (DTSC) adopted new hazardous waste permitting criteria regulations, which became effective on January 1, 2019. The full text of the hazardous waste permitting criteria regulations is available at [https://www.dtsc.ca.gov/LawsRegsPolicies/Regs/upload/18-DTSC-SB-673-Reg-TEXT\\_OAL\\_20181023-revised.pdf](https://www.dtsc.ca.gov/LawsRegsPolicies/Regs/upload/18-DTSC-SB-673-Reg-TEXT_OAL_20181023-revised.pdf). More information regarding SB 673 is available at [https://www.dtsc.ca.gov/HazardousWaste/Permit\\_Roundtables.cfm](https://www.dtsc.ca.gov/HazardousWaste/Permit_Roundtables.cfm).

<sup>2</sup> For purposes of calculating a facility's inspection violation score, DTSC may also consider Class II violations that meet the definition of a Class I violation as specified in CCR, title 22, section 66260.10. (See 22 CCR § 66271.50, subd. (d)(1).)

Based on the provisional inspection violation scores for the Facility for the ten (10) year period beginning January 1, 2009, through December 31, 2018, DTSC has calculated a Facility VSP Score for the Facility of "**14.20**". A Facility VSP Score is the sum of all provisional or final inspection violation scores for each compliance inspection conducted during the preceding ten (10) years, divided by the number of compliance inspections. (See 22 CCR § 66271.54, subd. (a).)

A facility may be assigned to one of three compliance tiers based on its Facility VSP Score:

- "Acceptable." A facility that receives a Facility VSP Score of less than 20 shall be designated as having a Facility VSP Score that is "acceptable". (See 22 CCR § 66271.54, subd. (b)(1).)
- "Conditionally Acceptable." A facility that receives a Facility VSP Score equal to or greater than 20 and less than 40 shall be designated as having a Facility VSP Score that is "conditionally acceptable." Facilities that receive a final compliance tier assignment of "conditionally acceptable" are required to comply with additional requirements outlined in the regulations. (See 22 CCR § 66271.54, subd. (b)(2); 22 CCR § 66271.56.)
- "Unacceptable." A facility that receives a Facility VSP Score equal to or greater than 40 shall be designated as having a Facility VSP Score that is "unacceptable." DTSC is required to initiate permit denial, suspension, or revocation proceedings for facilities that receive a final compliance tier assignment of "unacceptable." (See 22 CCR § 66271.54, subd. (b)(3); 22 CCR § 66271.57.)

As a result of the Facility's VSP Score, DTSC has assigned the Facility to a compliance tier of "**Acceptable**". Generally, as discussed further below, a facility's compliance tier assignment becomes final after all provisional inspection violation scores upon which the Facility VSP Score is based become final pursuant to CCR, title 22, section 66271.53, subdivision (d).

### **Provisional Inspection Violation Score Disputes and Compliance Tier Assignment Challenges**

An owner or operator of a facility may dispute a provisional inspection score pursuant to CCR, title 22, section 66271.53, subdivision (c) by filing a Provisional Inspection Violation Score Dispute Document (template available at <https://dtsc.ca.gov/violations-scoring-procedure/>) within sixty (60) calendar days of this notice. All of the following information must be enclosed with the Dispute Document cover letter:

- A statement that describes in detail the factual and legal basis of the dispute and the relief sought;
- Any claimed erroneous facts, assumptions, approaches, or conclusions of law made by DTSC;

- A statement describing in detail any efforts already made by the owner or operator to resolve the dispute with DTSC; and
- Any photographs, documents, or any other material that supports the owner's or operator's position regarding the disputed provisional inspection violation score.

The owner or operator of a facility may request a one-time extension of up to sixty (60) calendar days to submit a Provisional Inspection Violation Score Dispute Extension Document (template available at <https://dtsc.ca.gov/violations-scoring-procedure/>).

DTSC will issue a written decision, granting or denying, in whole or in part, the relief sought by the owner or operator of a facility disputing a provisional inspection violation score. A provisional inspection violation score will become the final inspection violation score consistent with DTSC's written decision. A provisional inspection violation score will also become the final inspection violation score if the owner or operator of a facility does not file a Dispute Document within sixty (60) calendar days of this notice.

A facility's compliance tier assignment becomes final after all inspection violation scores upon which the Facility VSP Score is based become final pursuant to CCR, title 22, section 66271.53, subdivision (d). Final compliance tier assignments of "acceptable" or "conditionally acceptable" are not subject to additional administrative dispute resolution. (See 22 CCR § 66271.54, subs. (e), (f).) However, owners or operators of facilities assigned to a final compliance tier of "unacceptable" may further administratively challenge their final compliance tier assignment under California Code of Regulations, title 22, section 66271.57.

Issuance of this provisional inspection violation score, Facility 2019 VSP Score, and compliance tier assignment do not constitute an enforcement action. If you have any questions regarding this notice, please contact [VSP\\_Info@dtsc.ca.gov](mailto:VSP_Info@dtsc.ca.gov). If you have any questions regarding the dispute process, please contact [VSP\\_Dispute\\_Inbox@dtsc.ca.gov](mailto:VSP_Dispute_Inbox@dtsc.ca.gov).

Sincerely,



Keith Kihara, Chief  
Enforcement and Emergency Response Division

Enclosure(s)

Violation Scoring Matrix  
Proof of Service

### Violation Scoring Matrix

Facility Name:		J&B REFINING DBA J&B ENTERPRISES		10 Year Date Range:		2009-2018		Permit Effective Date:		5/7/2015		Link to EnviroStor	
Address:		1650 RUSSELL AVENUE, SANTA CLARA, CA 95054		Number of Inspections:		5		Permit Expiration Date:		5/6/2025		(Inspection Reports, SOVs,	
EPA ID:		CAD982052797		Total Number of Violations Scored:		4		Date VSP Completed:		8/6/2019		etc.)	
Inspection Date:	10/28/2010 CEI & 1/24/2011 FRR	Class I Justification	Citation	Violation	Potential for Harm	Potential for Harm Justification	Extent of Deviation	Extent of Deviation Justification	Initial Score	Repeat (Yes/No)	Date(s) of Previous Violation	Adjustment Factor (%)	Adjusted Score
Inspection Type:	CEI & FRR												
Class I Violations:	1	The deviation from the requirements was significant enough that it could have resulted in a failure to prevent releases of HW or constituents to the environment during the active period of facility operation.	HSC 25202, 22 CCR 66270.30(a), 22 CCR 66264.192(i)(1), and HWFP Part 1.6(a) and (c).	The facility failed to perform tank certifications on tanks identified in its HWFP within five years of the initial certification of tanks. The initial certification of the at issue tanks was completed on 7/10/2001. As of 10/28/2010, the date of the inspection, the tanks had not been recertified.	Major	Failure to complete timely tank certifications had the potential to harm public health and the environment by not verifying that each tank had sufficient structural integrity and was acceptable for the transfer, storage, and treatment of HW. The tanks in violation were from four tank systems. Permitted wastestreams included aqueous solutions with cyanide and precious metals, iodine etch solutions, solder dross, cyanide strip solutions, acid purification solutions, filter cake, caustic and acidic resin regenerant solutions, and spent ion exchange resins. The volume of and characteristics of the wastes in the five tanks constituted a major potential for harm.	Major	A new tank certification was required by 7/11/2006. For VSP purposes, the dates of this violation ranged from 1/1/2009 to 11/3/2010. All tanks requiring certification were found in violation demonstrating that the function of the requirement was rendered ineffective such that it could deprive the public of any of the protective benefits intended by the HW management requirement.	25	No	n/a	0	25.00
	Class II Violations:	2	The deviation from the requirements was significant enough that it could have resulted in a failure to prevent releases of HW or constituents to the environment during the active period of facility operation and/or assure that HW are destined for and delivered to an authorized HW facility.	HSC 25202(a) and HWFP Part II.1, II.7, and Part III	The facility stored HW in an area not authorized in its HWFP. The facility stored the following in the Electronic Scrap Bin Area, an unauthorized storage area for HW: (1) a 55-gallon drum that contained spent filters, wipes, and resin contaminated with cyanide residue; (2) a five gallon container that contained spent cyanide filters; and (3) a plastic bag that contained contaminated gloves, wipes, and resin.	Moderate	One 55-gallon drum that contained spent filters, wipes, and resin contaminated with cyanide residue and one five gallon container that contained spent cyanide filters and a plastic bag that contained contaminated gloves, wipes, and resin were found in violation. Exposure to cyanide can result in dizziness, rapid breathing and heart rate, loss of consciousness, lung injury, and respiratory failure. The small volume and characteristics of the HW cited in violation presented a moderate threat to public health and safety and the environment.	Minimal	Only two containers were cited in violation at the facility, which demonstrated that the requirement functioned nearly as intended, but not as well as if all provisions had been met.	6	No	n/a	0
<b>Provisional Inspection Violation Score:</b>													31.00
Inspection Date:	10/1/2013 CEI & 10/30/2013 FRR	Class I Justification	Citation	Violation	Potential for Harm	Potential for Harm Justification	Extent of Deviation	Extent of Deviation Justification	Initial Score	Repeat (Yes/No)	Date(s) of Previous Violation	Adjustment Factor (%)	Adjusted Score
Inspection Type:	CEI & FRR												
Class I Violations:	0	n/a	n/a	No Class I Violations	n/a	n/a	n/a	n/a	0	n/a	n/a	n/a	0.00
<b>Provisional Inspection Violation Score:</b>													0.00
Inspection Date:	4/26/2016 CEI & 5/2/2016 FRR	Class I Justification	Citation	Violation	Potential for Harm	Potential for Harm Justification	Extent of Deviation	Extent of Deviation Justification	Initial Score	Repeat (Yes/No)	Date(s) of Previous Violation	Adjustment Factor (%)	Adjusted Score
Inspection Type:	CEI & FRR												
Class I Violations:	0	n/a	n/a	No Class I Violations	n/a	n/a	n/a	n/a	0	n/a	n/a	n/a	0.00
<b>Provisional Inspection Violation Score:</b>													0.00

### Violation Scoring Matrix

Facility Name:		J&B REFINING DBA J&B ENTERPRISES		10 Year Date Range:		2009-2018		Permit Effective Date:		5/7/2015		Link to EnviroStor	
Address:		1650 RUSSELL AVENUE, SANTA CLARA, CA 95054		Number of Inspections:		5		Permit Expiration Date:		5/6/2025		(Inspection Reports, SOVs, etc.)	
EPA ID:		CAD982052797		Total Number of Violations Scored:		4		Date VSP Completed:		8/6/2019			
Inspection Date:	4/26/2016	Class I Justification	Citation	Violation	Potential for Harm	Potential for Harm Justification	Extent of Deviation	Extent of Deviation Justification	Initial Score	Repeat (Yes/No)	Date(s) of Previous Violation	Adjustment Factor (%)	Adjusted Score
Inspection Type:	CEI / Transporter												
Class I Violations:	0	n/a	n/a	No Class I Violations	n/a	n/a	n/a	n/a	0	n/a	n/a	n/a	0.00
<b>Provisional Inspection Violation Score:</b>													0.00
Inspection Date:	6/28/2018 CEI & 7/3/2018 FRR	Class I Justification	Citation	Violation	Potential for Harm	Potential for Harm Justification	Extent of Deviation	Extent of Deviation Justification	Initial Score	Repeat (Yes/No)	Date(s) of Previous Violation	Adjustment Factor (%)	Adjusted Score
Inspection Type:	CEI & FRR												
Class I Violations:	0	n/a	n/a	No Class I Violations	n/a	n/a	n/a	n/a	0	n/a	n/a	n/a	0.00
Class II Violations:	1	The deviation from the requirement was significant enough that it could have resulted in a failure to assure that HW are destined for and delivered to an authorized HW facility.	22 CCR 66262.11	The facility failed to make a HW determination for several wastes on its property, as there were six instances in which inherently waste-like chemical containers were on site in dilapidated, rusted drums and containers with no HW determinations. One 5-gallon container of 1,1,1, Trichloroethane was stored in a 55-gallon steel drum labeled as excluded recyclable material, one 15-gallon poly drum containing several containers of motor oil that had leaked into bottom of the drum, one 55-gallon steel drum containing what appeared to be old paint and paint related wastes, two yellow over-pack drums with 55-gallon steel and poly drums contained within, and one 55-gallon poly container with a motor affixed to the top of the drum with red powder and residues covering the inside of the container.	Moderate	The facility did not perform waste determinations on the following: One 5-gallon container of 1,1,1-trichloroethane, which can cause negative effects on the nervous system, mild liver damage, unconsciousness, and even death; and containers containing waste oil, waste diesel fuel, old latex paint, and automotive wastes (lubricant, brake fluid). The total volume (approximately up to 240 gallons) and characteristics of the wastes cited in violation presented a moderate threat to human health and safety and the environment.	Moderate	Six separate instances were cited in violation out of all the HW stored and observed onsite, demonstrating that the requirement functioned to some extent.	15	No	n/a	0	15.00
	2	The deviation from the requirement was significant enough that it could have resulted in a failure to prevent releases of HW or constituents to the environment during the active period of facility operation.	22 CCR 66264.192(1)(1)	The facility failed to recertify its tank systems within five years of the previous tank integrity system. The previous tank assessment was signed on 1/28/2013. New tank integrity assessment was due on 1/28/2018. However, as of the date of the inspection, the new assessment had not been completed.	Major	Failure to complete timely tank certifications had the potential to harm public health and the environment by not verifying that each tank had sufficient structural integrity and was acceptable for the transferring, storing, and treating of HW. The tanks in violation were from four tank systems. Permitted waste streams included aqueous solutions with cyanide and precious metals, iodine etch solutions, solder dross, cyanide strip solutions, acid purification solutions, filter cake, caustic and acidic resin regenerant solutions, and spent ion exchange resins. The volume of and characteristics of the wastes in the at issue tanks constituted a major potential for harm.	Major	The facility was out of compliance from 1/28/2018 through 6/28/2018 (5 months total and counting) at the time of the inspection. Since all of the permitted tanks were operating without a current certification for six months, the requirement was completely ignored such that it deprived the public of any of the protective benefits intended by the requirements.	25	No	n/a	0	25.00
<b>Provisional Inspection Violation Score:</b>													40.00

## Violation Scoring Matrix

Facility Name: J&B REFINING DBA J&B ENTERPRISES	10 Year Date Range: 2009-2018	Permit Effective Date: 5/7/2015	<a href="#">Link to EnviroStor</a> (Inspection Reports, SOVs, etc.)
Address: 1650 RUSSELL AVENUE, SANTA CLARA, CA 95054	Number of Inspections: 5	Permit Expiration Date: 5/6/2025	
EPA ID: CAD982052797	Total Number of Violations Scored: 4	Date VSP Completed: 8/6/2019	

FACILITY VIOLATIONS SCORING PROCEDURE SCORE				
Inspection Number	Number of Violations Scored	Inspection Type(s)	Inspection Date(s)	Provisional Inspection Violation Score
1	2	CEI & FRR	10/28/2010 CEI & 1/24/2011 FRR	31.00
2	0	CEI & FRR	10/1/2013 CEI & 10/30/2013 FRR	0.00
3	0	CEI & FRR	4/26/2016 CEI & 5/2/2016 FRR	0.00
4	0	CEI / Transporter	4/26/2016	0.00
5	2	CEI & FRR	6/28/2018 CEI & 7/3/2018 FRR	40.00
Sum of Provisional Inspection Violation Scores				<b>71.00</b>
<b>*FACILITY VSP SCORE</b>				<b>14.20</b>

**\*FACILITY VSP SCORE = Sum of Provisional Inspection Violation Scores/Total Number of Inspections conducted in 10 year (calendar) timeframe**

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| <ul style="list-style-type: none"> <li>CCR = California Code of Regulations</li> <li>CDI = Case Development Inspection</li> <li>CEI = Compliance Evaluation Inspection</li> <li>CI = Complaint Investigation</li> <li>DTSC = Department of Toxic Substances Control</li> <li>EPA ID = Environmental Protection Agency Identification</li> <li>FCI = Focused Compliance Inspection</li> <li>FRR = Financial Records Review</li> <li>FSD = Facility Self Disclosure</li> <li>FUI = Follow-Up Inspection</li> </ul> | <ul style="list-style-type: none"> <li>GAR = Groundwater Audit Report</li> <li>GME = Groundwater Monitoring Evaluation</li> <li>HSC = Health and Safety Code</li> <li>HW = Hazardous Waste</li> <li>HWFP = Hazardous Waste Facility Permit</li> <li>n/a = Not Applicable</li> <li>NFRR = Non-Financial Record Review</li> <li>RCRA = Resource Conservation and Recovery Act</li> <li>SOV = Summary of Violations</li> <li>VSP = Violations Scoring Procedure</li> </ul> |
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## PROOF OF SERVICE

1. I served the NOTICE OF PROVISIONAL INSPECTION VIOLATION SCORES, 2019 FACILITY VIOLATION SCORING PROCEDURE SCORE, AND 2019 COMPLIANCE TIER ASSIGNMENT on Jim Hague, J & B Refining DBA J & B Enterprise, EPA ID Number CAD982052797.
2. I served Jim Hague, J & B Refining DBA J & B Enterprise, by mailing a copy of the aforementioned document via Certified Mail, Receipt No. 7018-0680-0000-9827-9263, return receipt requested, in a sealed envelope addressed to:

Mr. Jim Hague  
J & B Refining DBA J & B Enterprise  
1650 Russell Ave.  
Santa Clara, California 95054

3. My name, business address, and telephone number are:

Alan Korematsu  
Department of Toxic Substances Control  
HWMP, 11<sup>th</sup> Floor  
1001 I Street  
Sacramento, CA 95812-0806  
(916) 323-3706

I declare under penalty of perjury that the foregoing is true and correct and that this declaration of Proof of Service is executed on October 4, 2019 at Sacramento, California.

  
\_\_\_\_\_  
(Signature)