



Jared Blumenfeld  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control



Gavin Newsom  
Governor

Meredith Williams, Ph.D.  
Acting Director  
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September 27, 2019

Certified Mail No.: 7018-0680-0000-9828-1563

Mr. Mike Hukill  
KW Plastics of California  
1861 Sunnyside Court  
Bakersfield, California 93308

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

Dear Mr. Mike Hukill:

**2019 Facility Violations Scoring Procedure (VSP) Score: 8.33**  
**2019 Compliance Tier Assignment: Acceptable**

The purpose of this letter is to provide KW Plastics of California, CAD982435026, located at 1861 Sunnyside Ct., Bakersfield, CA 93308 (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 **"8.33"**. 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, subds. (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:		KW PLASTICS OF CALIFORNIA		10 Year Date Range:		2009-2018		Permit Effective Date:		6/26/2017		Link to EnviroStor	
Address:		1861 SUNNYSIDE COURT, BAKERSFIELD, CA 93308		Number of Inspections:		6		Permit Expiration Date:		6/25/2027		(Inspection Reports, SOVs, etc.)	
EPA ID:		CAD982435026		Total Number of Violations Scored:		2		Date VSP Completed:		8/7/2019			
Inspection Date:	4/21/2009 CEI & 6/1/2009 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
Provisional Inspection Violation Score:													0.00
Inspection Date:	10/20/2010 CEI & 2/8/2011 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:	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
Provisional Inspection Violation Score:													0.00
Inspection Date:	10/16/2012 CEI & 1/23/2013 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
Provisional Inspection Violation Score:													0.00
Inspection Date:	2/10/2015 CEI & 6/17/2015 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
Provisional Inspection Violation Score:													0.00

### Violation Scoring Matrix

Facility Name: KW PLASTICS OF CALIFORNIA		10 Year Date Range: 2009-2018		Permit Effective Date: 6/26/2017		Permit Expiration Date: 6/25/2027		Date VSP Completed: 8/7/2019		Link to EnviroStor (Inspection Reports, SOVs, etc.)			
Address: 1861 SUNNYSIDE COURT, BAKERSFIELD, CA 93308		Number of Inspections: 6		Total Number of Violations Scored: 2									
Inspection Date:	11/16/2016	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:	CDI												
Class I Violations:	1	The deviation from the requirements was significant enough that it could result in a failure to prevent releases of HW or constituents to the environment during the active period of facility operation.	HSC 25154, HSC 25189.2(c), HSC 25201(a), and HSC 25203	The facility mismanaged and disposed of HW at an unauthorized point.	Major	DTSC sampled and found significant levels of lead in the soil on-site. Sampling results demonstrated that lead was detected at 10 mg/L of lead. The STLC threshold is 5 mg/L of lead. Lead can be toxic to humans and animals causing significant negative health effects. A major potential for harm was assigned due to the wastestream at issue.	Major	During a sampling event, lead was found at levels of 128 ppm in the soil on the west side of the East Field to the south of the facility's parked trailers and lead was also found at levels of 161 ppm, in the soil in the center of the East Field. The facility failed to prevent releases to the environment. The requirement was rendered ineffective as its provisions were not complied with.	25	No	n/a	0	25.00
<b>Provisional Inspection Violation Score:</b>													25.00
Inspection Date:	1/10/2017 CEI & 2/14/2017 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 requirement was significant enough that it could result in a failure to prevent releases of HW or constituents to the environment during the active period of facility operation.	HSC 25201(a)	The facility accepted and treated HW without authorization from DTSC. The facility accepted 243 loads/manifests (approximately 5,132 tons) of HW with D002 and D008 waste codes. The facility illegally treated lead contaminated HW by compressing it into bales in its trash baler. The facility also illegally treated lead contaminated HW bales by allowing them to drip dry, as the facility loaded the bales onto the bale drying rack to drip dry before disposal.	Major	The facility is only permitted to receive and treat lead-impacted (D008) polypropylene chips generated from lead-acid battery recovery processes. The facility accepted D008 and D002 (corrosive) wastes from 2004 through 2014. Facility personnel explained that the wastes were listed as D008 and D002 because the generator would wash the lead polypropylene chips in sodium hydroxide due to concerns of pH. A major potential for harm was assigned due to the wastestreams at issue and mismanagement that could result in worker exposure or a release of HW to the environment.	Major	The facility accepted thousands of tons of HW listed as D008 and D002, and stated that "they all go into the same wash tank," and are "blended into the process". The facility explained that during the various wash cycles, debris and sediment were removed from the plastic chips and consolidated into a waste bale by the trash baler. The wastes were then compressed by the trash baler. The compression of the D008 waste by the trash baler changed the physical characteristics of the waste in that water was extracted by the compression process. After the lead contaminated HW was compressed into a bale, they were loaded onto the bale drying rack to drip dry before disposal. All of these treatment activities were not authorized by the facility's HWFP. The requirement was rendered ineffective as its provisions were not complied with.	25	No	n/a	0	25.00
<b>Provisional Inspection Violation Score:</b>													25.00

## Violation Scoring Matrix

Facility Name: KW PLASTICS OF CALIFORNIA	10 Year Date Range: 2009-2018	Permit Effective Date: 6/26/2017	<a href="#">Link to EnviroStor</a> (Inspection Reports, SOVs, etc.)
Address: 1861 SUNNYSIDE COURT, BAKERSFIELD, CA 93308	Number of Inspections: 6	Permit Expiration Date: 6/25/2027	
EPA ID: CAD982435026	Total Number of Violations Scored: 2	Date VSP Completed: 8/7/2019	

FACILITY VIOLATIONS SCORING PROCEDURE SCORE				
Inspection Number	Number of Violations Scored	Inspection Type(s)	Inspection Date(s)	Provisional Inspection Violation Score
1	0	CEI & FRR	4/21/2009 CEI & 6/1/2009 FRR	0.00
2	0	CEI & FRR	10/20/2010 CEI & 2/8/2011 FRR	0.00
3	0	CEI & FRR	10/16/2012 CEI & 1/23/2013 FRR	0.00
4	0	CEI & FRR	2/10/2015 CEI & 6/17/2015 FRR	0.00
5	1	CDI	11/16/2016	25.00
6	1	CEI & FRR	1/10/2017 CEI & 2/14/2017 FRR	25.00
<b>Sum of Provisional Inspection Violation Scores</b>				<b>50.00</b>
<b>*FACILITY VSP SCORE</b>				<b>8.33</b>

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

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| <p>CCR = California Code of Regulations<br/>                 CDI = Case Development Inspection<br/>                 CEI = Compliance Evaluation Inspection<br/>                 CI = Complaint Investigation<br/>                 DTSC = Department of Toxic Substances Control<br/>                 EPA ID = Environmental Protection Agency Identification<br/>                 FCI = Focused Compliance Inspection<br/>                 FRR = Financial Records Review<br/>                 FSD = Facility Self Disclosure<br/>                 FUJ = Follow-Up Inspection</p> | <p>GAR = Groundwater Audit Report<br/>                 GME = Groundwater Monitoring Evaluation<br/>                 HSC = Health and Safety Code<br/>                 HW = Hazardous Waste<br/>                 HWFP = Hazardous Waste Facility Permit<br/>                 n/a = Not Applicable<br/>                 NFRR = Non-Financial Record Review<br/>                 RCRA = Resource Conservation and Recovery Act<br/>                 SOV = Summary of Violations<br/>                 VSP = Violations Scoring Procedure</p> |
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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 Mike Hukill, KW Plastics of California, EPA ID Number CAD982435026.
2. I served Mike Hukill, KW Plastics of California, by mailing a copy of the aforementioned document via Certified Mail, Receipt No. 7018-0680-0000-9828-1563, return receipt requested, in a sealed envelope addressed to:

Mr. Mike Hukill  
KW Plastics of California  
1861 Sunnyside Court  
Bakersfield, California 93308

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, California 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)